

## CALIFORNIA COASTAL COMMISSION

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Staff: Robert S. Merrill  
Staff Report: September 28, 2006  
Hearing Date: October 13, 2006

## STAFF REPORT: APPEAL

### SUBSTANTIAL ISSUE

APPEAL NO.: **A-1-HUM-06-041**

APPLICANTS: **Michael & Sharon Fennell**

LOCAL GOVERNMENT: County of Humboldt

DECISION: Approval with Conditions

PROJECT LOCATION: At 1505 Peninsula Drive, Manila, Humboldt County (APN 400-151-01).

PROJECT DESCRIPTION: (1) Divide an approximately 3.7-acre parcel into three parcels of 15,000 square feet, 15,670 square feet, and 2.95 acres, and (2) construct single family residences with attached garages on proposed Parcels 1 and 3.

APPELLANTS: Commissioners Sara Wan and Meg Caldwell.

SUBSTANTIVE FILE: 1) Humboldt County Permit Application No. PMS-08-22/CDP-05-47/SP-05-62;  
DOCUMENTS 2) Humboldt County Local Coastal Program.

### SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that a SUBSTANTIAL ISSUE exists with respect to the grounds on which the appeal has been filed and that the Commission hold a de novo hearing, because the appellant has raised a substantial issue with the local government's action and its consistency with the certified Local Coastal Program (LCP).

The development, as approved by the County, consists of (1) the division of an approximately 3.7-acre parcel into three parcels of 15,000 square feet, 15,670 square feet, and 2.95 acres, and (2) construction of single family residences with attached garages on proposed Parcels 1 and 3. Specific design plans for each of the two new houses were not reviewed as part of the County's action on the coastal development permit. Instead, the permit grants blanket approval for the two homes specifying that the homes shall be two-story with a maximum height of 30 feet, a maximum size of 2,000 square feet, and the attached two car garages shall be approximately 440 square feet in size. The applicant must show that the plans for each home conform to these parameters when they apply for building permits from the County.

The property is located in the Manila area on the Samoa Peninsula, on the west side of Peninsula Drive, approximately 1,200 feet north of the intersection of Peninsula Drive and State Route 255 on the property known as 1501 Peninsula Drive.

The Commission received one appeal of the County of Humboldt's decision to conditionally approve the development from Commissioners Wan and Caldwell. The appellants contend that the project as approved is inconsistent with the geologic and flood hazard policies of the certified LCP with respect to minimizing risks to life and property from tsunamis.

The County staff report notes that the subject property along with many others along the Samoa Peninsula of Humboldt Bay is shown on the maps of the Planning Scenario of a Great Earthquake on the Cascadia Subduction Zone (CSZ, CDMG, 1995, Map S-1) as being within the zone of potential inundation by a tsunami. The project as approved will create two additional home sites on the property that are within the zone of potential inundation. As approved, the coastal development permit does not require that the home sites or habitable spaces of the home be located at any particular elevation to minimize the risks of inundation. Instead, the County notes that the applicant has made a voluntary contribution to a tsunami readiness fund administered by the County Office of Emergency Services and the National Weather Service for use in installation of an active warning system or for other activities such as tsunami education, identification of evacuation routes, and signage. Thus, as the project as approved does not ensure that the two new home sites to be created will be protected from the risks of inundation during a tsunami, the appellants contend that the project as approved does not minimize risks to life and property in areas of high geologic or flood hazard as required by the policies of the certified LCP.

Staff recommends that the Commission find that the contention raises a substantial issue because the project as approved does not minimize the risk of flood hazards in the event of a tsunami, and therefore raises a substantial issue of conformance with Section 30253 of the Coastal Act and Section 3.17 of the Humboldt County LUP, to which Section 30253 is incorporated. Although development of effective tsunami warning and evacuations systems and plans is an important and essential element of an overall strategy for addressing the flooding threat from tsunamis, warning and evacuation plans do not minimize risks of flood hazards as required by the policy. Other means are available that could also be utilized that would reduce the risks to residents associated with tsunami hazards to a much greater degree.

First, not approving a division of land that creates additional residential building sites within a tsunami wave run-up area would greatly reduce the risk to life and property by reducing the numbers of people and structures that would be threatened by the tsunami. Second, siting and designing residential structures such that their habitable living spaces are at elevations that avoid tsunami wave run-up would greatly reduce the risk to life and property.

Therefore, staff recommends that the Commission find that the approved project raises a substantial issue of conformance with the hazard policies of the certified LCP, including (a) the provisions of Section 30235 of the Coastal Act and the certified LUP to which Section 30235 has been incorporated that new development minimize risks to life and property in areas of high geologic and flood hazard, and (b) the provisions of Zoning Code Section 313-121.7.3 that developments shall be sited and designed to assure stability and structural integrity for their expected economic life spans.

Staff further recommends that the Commission continue the de novo portion of the hearing because the Commission does not have sufficient information to determine what development can be approved consistent with the LCP. Continuing the hearing would enable the applicant to provide an assessment of whether vegetation containing riparian species between the wetland and the development site is riparian ESHA habitat and whether the County required ESHA buffers should be modified to protect this habitat. Such information is needed to enable the staff to complete its analysis of the development and develop a de novo recommendation.

**The motion to adopt the staff recommendation of Substantial Issue is found on Page No. 5.**

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**STAFF NOTES:**

1. **Appeal Process.**

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (Coastal Act Section 30603).

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea or within one hundred feet of a wetland or stream or three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff, or those located in a sensitive coastal resource area.

Furthermore, developments approved by counties may be appealed if they are not designated the “principal permitted use” under the certified LCP. Finally, developments constituting major public works or major energy facilities may be appealed whether approved or denied by the city or county. The grounds for an appeal are limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program and, if development is located between the first public road and the sea<sup>1</sup>, the public access and public recreation policies set forth in the Coastal Act.

The subject development is appealable to the Commission pursuant to both Section 30603(a)(1) and (4) of the Coastal Act because it is: (a) located within 100 feet of a wetland or stream; (b) situated on a site that lies between the first public road and the sea; and (c) the development is not the principal permitted use under the certified LCP.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that the appeal raises no substantial issue of conformity of the approved project with the certified LCP. Since the staff is recommending substantial issue, unless three Commissioners object, it is presumed that the appeal raises a substantial issue and the Commission may proceed to its *de novo* review.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal

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<sup>1</sup> Per Section 13011 of the California Code of Regulations, the “first public road paralleling the sea” means that road nearest to the sea, as defined in Section 30115 of the Public Resources Code, which: (a) Is lawfully open to uninterrupted public use and is suitable for such use; (b) Is publicly maintained; (c) Is an improved, all-weather road open to motor vehicle traffic in at least one direction; (d) Is not subject to any restrictions on use by the public except when closed due to an emergency or when closed temporarily for military purposes; and (e) Does in fact connect with other public roads providing a continuous access system, and generally parallels and follows the shoreline of the sea so as to include all portions of the sea where the physical features such as bays, lagoons, estuaries, and wetlands cause the waters of the sea to extend landward of the generally continuous coastline.

raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised.

The only persons qualified to testify before the Commission on the substantial issue question are the applicants, the appellant and persons who made their views known to the local government (or their representatives). Testimony from other persons regarding substantial issue must be submitted in writing.

Unless it is determined that there is no substantial issue, the Commission will proceed to the *de novo* portion of the appeal hearing and review the merits of the proposed project. This *de novo* review may occur at the same or subsequent meeting. If the Commission were to conduct a *de novo* hearing on the appeal, because the proposed development is located between the first public road and the sea, the applicable test for the Commission to consider would be whether the development is in conformity with the certified Local Coastal Program and with the public access and public recreation policies of the Coastal Act.

## **2. Filing of Appeal.**

One appeal was filed by Commissioners Wan and Caldwell (see Exhibit No. 8). The appeal to the Commission was filed in a timely manner on September 19, 2006, within 10 working days of receipt by the Commission on September 5, 2006 of the County's Notice of Final Local Action.<sup>2</sup>

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## **I. MOTION, STAFF RECOMMENDATION AND RESOLUTION**

Pursuant to Section 30603(b) of the Coastal Act and as discussed below, the staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeal has been filed. The proper motion is:

### **MOTION:**

I move that the Commission determine that Appeal No. A-1-HUM-06-041 raises No Substantial Issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.

### **STAFF RECOMMENDATION:**

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<sup>2</sup> Pursuant to 14 CCR §13110, the appeal period commenced on September 6, 2006, the next working day following the receipt of the City's *Notice of Final Local Action* on September 5, 2006, and ran for the 10-working day period (excluding weekends) from September 6, 2006 through September 19, 2006.

Staff recommends a **NO** vote. Failure of this motion will result in a *de novo* hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

**RESOLUTION TO FIND SUBSTANTIAL ISSUE:**

The Commission hereby finds that Appeal No. A-1-HUM-06-041 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

**II. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

**A. APPELLANTS' CONTENTIONS**

The Commission received one appeal of the County of Humboldt's decision to conditionally approve the development from Commissioners Wan and Caldwell.

The project as approved by the County involves (1) the division of an approximately 3.7-acre parcel into three parcels of 15,000 square feet, 15,670 square feet, and 2.95 acres, and (2) construction of single family residences with attached garages on proposed Parcels 1 and 3.

The property is located in the Manila area on the Samoa Peninsula, on the west side of Peninsula Drive, approximately 1,200 feet north of the intersection of Peninsula Drive and State Route 255 on the property known as 1501 Peninsula Drive.

The appeal raises a contention alleging inconsistency of the approved project with the County's certified LCP. The appellants' contention is summarized below, and the full text of the contention is included as Exhibit No. 8.

1. Tsunami Hazards

The appellants contend that the project as approved is inconsistent with the geologic and flood hazard policies of the certified LCP with respect to minimizing risks to life and property from tsunamis.

The County staff report notes that the subject property along with many others along the Samoa Peninsula of Humboldt Bay is shown on the maps of the Planning Scenario of a Great Earthquake on the Cascadia Subduction Zone (CSZ, CDMG, 1995, Map S-1) as being within the zone of potential inundation by a tsunami. The project as approved will create two additional home sites on the property that are within the zone of potential inundation. As approved, the coastal development permit does not require that the home sites or habitable spaces of the home be located at any particular elevation to minimize the risks of inundation. Instead, the County notes that the applicant has made a voluntary contribution to a tsunami readiness fund administered by the County Office of Emergency Services and the National Weather Service for use in installation of an active warning system or for other activities such as tsunami education, identification of evacuation routes, and signage. Thus, as the project as approved does not ensure that the two new home sites to be created will be protected from the risks of inundation during a tsunami, the project as approved does not minimize risks to life and property in areas of high geologic or flood hazard as required by the policies of the certified LCP.

## **B. LOCAL GOVERNMENT ACTION**

On August 17, 2006, the Humboldt County Planning Commission conditionally approved the coastal development permit (CDP-05-047, see Exhibit No. 7) for (1) the division of an approximately 3.7-acre parcel into three parcels of 15,000 square feet, 15,670 square feet, and 2.95 acres, and (2) construction of single family residences with attached garages on proposed Parcels 1 and 3. Specific design plans for each of the two new houses were not reviewed as part of the County's action on the coastal development permit. Instead, the permit grants blanket approval for the two homes specifying that the homes shall be two-story with a maximum height of 30 feet, a maximum size of 2,000 square feet, and the attached two car garages shall be approximately 440 square feet in size. The applicant must show that the plans for each home conform to these parameters when they apply for building permits from the County. At the same time, the County conditionally approved a non-appealable parcel map subdivision approval and a Special Permit.

The Planning Commission attached 11 special conditions specifically to the coastal development permit approval. These conditions included, among others, requirements that: (a) all exterior lighting be shielded; (b) the new residences be connected to the Manila Community Service District water and sewer service; (c) the new houses be limited to heights not to exceed 30 feet and gross floor areas not to exceed 2,000 square feet; (d) a cultural monitor be retained to observe all earthwork to the satisfaction of the Wiyot Tribe; (e) measures to minimize impacts on the adjacent dune hollow wetland be incorporated into the project including positioning all high use areas of the residences as far away as possible from the wetland, minimizing the use of impervious surfaces for driveways and walkways, and limiting vegetation removal and replanting disturbed areas.

The conditions of approval for the subdivision included Special Condition No. 9, which requires that the applicant submit evidence that the contribution to the Tsunami Ready Program Fund has been made prior to recordation of the parcel map. The OES and the National Weather Service are working to establish an active warning system and evacuation plans for tsunami hazard areas in the area. The agencies use money from the Tsunami Ready Program Fund to in part help prepare such warning systems and evacuation plans.

The decision of the Planning Commission was not appealed at the local level to the County Board of Supervisors. The County then issued a Notice of Final Action, which was received by the Commission staff on September 5, 2006 (Exhibit No. 7). The County's approval of the project was appealed to the Coastal Commission in a timely manner on September 19, 2006, within 10-working days after receipt by the Commission of the Notice of Final Local Action.

### **C. SITE DESCRIPTION**

The property is located in the Manila area on the Samoa Peninsula, or the North Spit of Humboldt Bay (see Exhibits 1-5). The Samoa Peninsula is a 17-mile long barrier sand spit separating the northern part of Humboldt Bay from the Pacific Ocean. The specific location of the property is on the west side of Peninsula Drive, approximately 1,200 feet north of the intersection of Peninsula Drive and State Route 255 on the property known as 1501 Peninsula Drive.

The subject property is located within a developed rural residential area locally designated as residential estates in the Humboldt Bay Area Plan and zoned as Residential Single Family with a 20,000-square-foot minimum parcel size and a combining zone for Manufactured Homes and Beach and Dune Area (RS-20-M/B). The surrounding area consists mostly of larger residential parcels developed with single-family residences and containing natural resource lands. Although much of the Samoa Peninsula has been developed for industrial and residential use, the peninsula still contains upland sand dune communities, estuarine wetlands, and dune hollows and other freshwater wetlands. The surrounding properties contain some of these resources.

The approximately 3.7-acre property fronts along 247 lineal feet of Peninsula Drive and extends approximately 700 feet west towards the ocean. Apart from the somewhat wider portion of the property fronting on Peninsula Drive, the parcel is approximately 206 feet in width. The eastern side of the property consists of an upland area with a substrate of native sand and gravel fill and supports the existing development on the property and the approved new structures. Topographical information contained on the parcel map indicates that the top of the upland area ranges in elevation from approximately 28 to 32 feet above mean sea level. The existing development consists of a manufactured home

installed in 1985 prior to certification of the Humboldt County Local Coastal Program pursuant to Commission Coastal Development Permit No. 1-85-085, several sheds, an existing driveway that extends off Peninsula Drive, and a propane tank. The existing home is served by municipal sewer and water services provided by the Manila Community Services District. The areas adjacent to the development in this area have been maintained as lawn and garden and contain non-native grasses and ornamentals and no known rare or endangered species.

Approximately 25 feet west of the existing residence, the topography slopes downward at an approximately 45% grade into a woody dune hollow. The vegetation at the lower end of the slope includes hooker willow (*Salix hookeriana*), evergreen huckleberry (*Vaccinium ovatum*), bracken fern (*Pteridium aquilinum*), sweet vernal grass (*Anthoxanthum odoratum*) and California blackberry (*Rubus ursinus*).

The dune hollow at the base of the slope extends westward several hundred feet until it abuts interior sand dunes at the far west end of the property. According to the wetland delineation study prepared for the project, the hollow represents a seasonally inundated freshwater wetland dominated by a high cover of woody shrubs and small trees and a dense herbaceous layer of obligate hydrophytes. Species include hooker willow (*Salix hookeriana*), Pacific wax myrtle (*Myrica californica*), Pacific crab apple (*Malus fusca*), California blackberry (*Rubus ursinus*), and slough sedge (*Carex obnupta*).

The County staff report notes that the subject property along with many others along the Samoa Peninsula of Humboldt Bay is shown on the maps of the Planning Scenario of a Great Earthquake on the Cascadia Subduction Zone (CSZ, CDMG, 1995, Map S-1) as being within the zone of potential inundation by a tsunami. The dunes to the west of the property are part of a 1.5-mile-long by 300-foot-wide ridge of wooded dunes that rise to an elevation of approximately 50 feet or more. These dunes may afford some protection from tsunamis coming directly from the ocean and may afford a high ground refuge location in the event of a tsunami. However, the mapped inundation zone indicates the site could be inundated from the east, or Bay, side of the Samoa Peninsula from a tsunami entering Humboldt Bay and extending northward along the bay shoreline. The topography east of the subject property slopes downward to the bay shoreline.

No known archaeological resources exist on the site. However, the subject property is near a known archaeological site. The Wiyot Indians prehistorically occupied the project area. Wiyot settlements lay along Humboldt Bay and along the banks of many of the streams and sloughs in the area. The County referred the development to the North Coastal Information Center and the Wiyot Tribe. The North Coast information Center recommended approval of the project and the Wiyot Tribe recommended that a cultural monitor be present during any ground disturbing activities.

The site is distant from the ocean and separated from the ocean shoreline by an intervening parcel. The site does not provide public access to the shoreline.

**D. PROJECT DESCRIPTION**

The County of Humboldt approved Coastal Development Permit No. CDP-05-47 to (1) divide the 3.7-acre subject property into three parcels of 15,000 square feet, 15,670 square feet, and 2.95 acres, and (2) construct single family residences with attached garages on proposed Parcels 1 and 3 (see Exhibit 5). Specific design plans for each of the two new houses were not reviewed as part of the County's action on the coastal development permit. Instead, the permit grants blanket approval for the two homes specifying that the homes shall be two-story with a maximum height of 30 feet, a maximum size of 2,000 square feet, and the attached two car garages shall be approximately 440 square feet in size. The applicant would need to show that the plans for each home conform to these parameters when they apply for building permits from the County.

In addition to the coastal development permit, the County also approved a Parcel Map Subdivision approval pursuant to the Subdivision Map Act and a Special Permit pursuant to the zoning ordinance. The Special Permit covers four matters. First, the Special Permit grants an exception to the minimum parcel size to allow the majority of the property which contains sensitive dune and wetland habitat to be included within the bounds of one large parcel (Parcel 3) for management purposes which necessitates that the two parcels proposed to be devoted to residential use be smaller than the normal minimum parcel size. Second, the Special Permit authorizes a reduction in the standard 100-foot wetland buffer setback required in the Land Use Plan. The buffer will be reduced by 10 feet on Parcel 3 to allow the construction of the residence and garage in an area that does not have space for a 100-foot buffer. Third, the Special Permit grants an exception to allow two existing sheds to remain on Parcel 1 prior to the establishment of the primary use, one of the authorized homes. Finally, the Special Permit allows the proposed single family residence on Parcel 1 to be built as a primary residence while designating the existing residence as a second dwelling unit prior to recording the subdivision map. These designations would allow the applicant to begin construction of the residence on Parcel 1 prior to the recordation of the Parcel Map. Prior to recordation of the parcel map, the existing and new residence to be constructed on parcel 1 would be considered primary and second residences on Parcel 1, with the existing residence designated as the second residence and the new residence being built to be designated as the primary residence. If for any reason the applicant fails to record the Parcel Map, the approved residence on Parcel 3 could not be built and the subject property would remain as one parcel with a single legally permitted primary and a single legally permitted secondary dwelling unit.

The two new homes that were approved would be provided sewer and water service by the Manila Community Services District which currently serves the existing residence on the property.

As part of the project proposal, the applicant is voluntarily contributing to the Tsunami Ready Program Fund administered through the County Office of Emergency Services which is working with National Weather Service to establish an active warning system and evacuation plans for tsunami hazard areas.

**D. SUBSTANTIAL ISSUE ANALYSIS**

Section 30603(b)(1) of the Coastal Act states:

*The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.*

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

*With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.*

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Title 14, Section 13115(b), California Code of Regulations.) In previous decisions on appeals, the Commission has been guided by the following factors:

- The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;
- The extent and scope of the development as approved or denied by the local government;
- The significance of the coastal resources affected by the decision;

- The precedential value of the local government's decision for future interpretations of its LCP; and
- Whether the appeal raises only local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure Section 1094.5.

The contention raised in the appeal presents potentially valid grounds for appeal in that the contention alleges the approved project's inconsistency with policies of the certified LCP. These contentions allege that the approval of the project by the City is inconsistent with LCP provisions regarding minimizing risks to life and property from geologic and flood hazards.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that with respect to the allegations concerning the consistency of the project as approved with the provisions of the LCP regarding minimizing risks to life and property from geologic and flood hazards, the appeal raises a substantial issue with regard to the approved project's conformance with the certified Humboldt County LCP.

**1. Allegations Raising Substantial Issue.**

a. Tsunami Hazards

The appellants contend that the project as approved is inconsistent with the geologic and flood hazard policies of the certified LCP with respect to minimizing risks to life and property from tsunamis.

Applicable LCP Policies

The Humboldt Bay Area Plan segment of the certified Land Use Plan incorporates Section 30253 of the Coastal Act as a policy of Section 3.17 "Hazards." Section 30253 of the Coastal Act states in applicable part:

*New development shall:*

- (1) *Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*

Section 313-121.7.3 of the Coastal Zoning Code states in applicable part:

*Developments shall be sited and designed to assure stability and structural integrity for their expected economic life spans while minimizing alteration of natural landforms*

#### Other Coastal Act Provisions

Coastal Act Section 30607 states:

*Any permit that is issued or any development or action approved on appeal, pursuant to this chapter, shall be subject to reasonable terms and conditions in order to ensure that such development or action will be in accordance with the provisions of this division.*

#### Discussion

The project as approved by the County involves (1) the division of an approximately 3.7-acre parcel into three parcels of 15,000 square feet, 15,670 square feet, and 2.95 acres, and (2) construction of single family residences with attached garages on proposed Parcels 1 and 3. Specific design plans for each of the two new houses were not reviewed as part of the County's action on the coastal development permit. Instead, the permit grants blanket approval for the two homes specifying that the homes shall be two-story with a maximum height of 30 feet, a maximum size of 2,000 square feet, and the attached two car garages shall be approximately 440 square feet in size. The applicant must show that the plans for each home conform to these parameters when they apply for building permits from the County.

The County staff report notes that the subject property along with many others along the Samoa Peninsula of Humboldt Bay is shown on the maps of the Planning Scenario of a Great Earthquake on the Cascadia Subduction Zone (CSZ, CDMG, 1995, Map S-1) as being within the zone of potential inundation by a tsunami. The County report states that after a major earthquake along the Cascadia Subduction Zone, a local tsunami would arrive within minutes. The County staff report indicates that a 1.5-mile long by 300-foot-wide ridge of wooded dunes located just west of the project site may afford a possible refuge during a tsunami, but that the degree of protection the ridge would afford for individual properties is unknown and direct and indirect effects of tsunami run-up such as flooding, wave and debris impacts, and access disruption could result in significant adverse impacts to persons and properties.

The County's approval acknowledges that flood hazards associated with a tsunami affect the subject property. As part of the project proposal, the applicant is voluntarily contributing to the Tsunami Ready Program Fund administered by the County Office of

Emergency Services (OES). Special Condition No. 9 of the subdivision map approval requires that the applicant submit evidence that the contribution to the Tsunami Ready Program Fund has been made prior to recordation of the parcel map. The OES and the National Weather Service are working to establish an active warning system and evacuation plans for tsunami hazard areas in the area. The agencies use money from the Tsunami Ready Program Fund to in part help prepare such warning systems and evacuation plans. The County findings indicate that based on the applicant's proposal to contribute to the Tsunami Ready Program Fund, the County was able to find that the project has a less than significant impact with respect to exposure to a tsunami. This contribution is presumably also the unstated basis for the County's determination that the project as approved is consistent with the Section 30253 of the Coastal Act, incorporated by reference into the LCP, and its requirement that new development minimize the risks to life and property in areas of high geologic, flood, and fire hazard.

The project as approved with the applicant's proposed contribution to the Tsunami Ready Program Fund does not minimize the risk of flood hazards in the event of a tsunami, and therefore raises a substantial issue of conformance with Section 30253 of the Coastal Act and Section 3.17 of the Humboldt County LUP, to which Section 30253 is incorporated. Although development of effective tsunami warning and evacuations systems and plans is an important and essential element of an overall strategy for addressing the flooding threat from tsunamis, warning and evacuation plans do not minimize risks of flood hazards as required by the policy. Other means are available that would reduce the risks to residents associated with tsunami hazards to a much greater degree.

First, not approving a division of land that creates additional residential building sites within a tsunami wave run-up area would greatly reduce the risk to life and property by reducing the numbers of people and structures that would be threatened by the tsunami. Second, siting and designing residential structures to either avoid or withstand tsunami wave run-up would greatly reduce the risk to life and property. For example, the proponents of the Samoa Town Plan Master Plan project, which as currently proposed involves the creation of approximately 244 additional single and multi-family residential units in the nearby Town of Samoa, have recently revised the Master Plan proposal to either site all new permanent residential structures above the 30-foot MSL level or design proposed residential structures on lands below 30 feet in a manner that positions the floor level of all habitable living spaces on upper floors or raised portions of the buildings that are above the 30-foot level. In the latter case, the structures would be designed to structurally withstand the force of the tsunami that could inundate the portions of the structures below the floor level of the living spaces. Unlike with reliance on a tsunami warning and evacuation system, such a strategy is not dependent on the evacuation of residents to ensure their safety but rather ensures residents can survive tsunamis without leaving their home. Residents who don't hear a tsunami warning or simply cannot react fast enough to a warning would still retain a good chance of survival. In addition, by locating such residential property outside of the areas of high risk or designing them to

withstand the force of a tsunami that inundates portions of the structures but not habitable living spaces, the Samoa approach would reduce risks to property to a much greater degree than the project as approved.

Thus, alternatives such as (1) not approving a land division that creates more residential building sites within a tsunami wave run-up area or (2) siting or designing the residential structures to be accommodated by the land division to either be outside of the areas at highest risk of tsunami wave run-up or constructed with habitable living spaces positioned only above tsunami inundation levels would reduce the risk to persons and property to a greater degree than relying on a system of tsunami warnings and evacuation plans in the manner approved by the County. Therefore, the project as approved raises a substantial issue of conformance with the requirements of Section 30235 of the Coastal Act and the certified LUP to which Section 30235 has been incorporated that new development minimize risks to life and property in areas of high geologic and flood hazard.

In his correspondence attached as Exhibit 9, the applicant points out that the elevation of the ground where the new home sites were approved by the County is approximately 30 to 31 feet. The contours on the tentative map show the elevation as ranging between 28 and 32 feet above mean sea level. He further indicates that the particular house plans that he intends to seek building permits for show the houses being constructed in a manner that would further elevate the living space of the homes to an elevation of approximately 34 feet above mean sea level. He suggests that as the homes would be constructed above the 30-foot elevation identified by the proponents of the Samoa Town Plan Master Plan project as a safe level for constructing homes, the approved development would minimize tsunami wave run-up risks.

The fact that the approved development would be constructed on relatively high ground for the local area is a positive factor for reducing tsunami risks and may enable a development creating more home sites to ultimately be approved at the site. However, the project as approved by the County still raises substantial issues of conformance with the LCP tsunami hazard policies for several reasons. First, there is a substantial issue as to whether 30 or 34 feet above mean sea level is the appropriate design elevation to set as the minimum floor level livable spaces of residences in this location. The Commission notes that subject property where the approved development is located is not in Samoa where the proponents of the Samoa Town Plan Master Plan project have projected 30 feet as a safe level for constructing homes, but rather in Manila, a couple of miles away. As discussed in the site description finding above, the biggest tsunami threat affecting the subject property may not come directly from the ocean west of a high ridge of sand dunes that could serve to block tsunami waves, but rather from the bay shoreline to the east, after a tsunami has entered Humboldt Bay and traveled up the shoreline. No dunes, hills or topographic barriers separate the protect site from the Bay as they do from the ocean. According to the Commission's coastal engineer, the shallow bathymetry of the bay and

its channels could actually act to funnel tsunami wave energy and increase the height of tsunami waves as they travel up the northern portion of Humboldt Bay, with the result that an elevation safe from tsunami waves in one location may not be safe in another location. In approving the coastal development permit, the County did not examine the potential for such local variation in tsunami wave heights. In fact, the County did not adopt a finding indicating that the approved development would be safe from tsunami wave run-up, but instead acknowledge that a risk exists and indicated that these risks would be mitigated by the applicants' voluntary contribution to a tsunami readiness fund for use in creating a tsunami warning system.

Second, the Samoa Town Plan LCP amendment has not yet been approved by the County and therefore has not yet been submitted for certification by the Commission. As part of the County review process, an independent consulting geologist or coastal engineer will be examining the Samoa Town Plan proponent's determination that a 30-foot design standard in the Town of Samoa is appropriate. Thus, the 30-foot elevation has not yet been firmly established as an appropriate design elevation for minimizing tsunami wave run-up risks even in Samoa.

Third, the coastal development permit approved by the County does not require the floor level of the livable spaces of the approved residences be built at any particular elevation. In fact, the County did not approve any specific design for the two new houses. Instead the permit grants blanket approval specifying that the homes shall be two-story with a maximum height of 30 feet, a maximum size of 2,000 square feet, and the attached two car garages shall be approximately 440 square feet in size. No minimum floor elevation is specified. Therefore, the houses as approved could be built with a habitable basement or otherwise constructed with floor levels below 30 feet or any particular elevation. Although the applicant indicates he intends to build houses with floor levels at 34 feet, he is under no obligation currently to follow through and build the houses at that level. Furthermore, if all or portions of the property are sold before either of the houses is constructed, successors in interest may choose to build different homes than the applicant envisions which may or may not be constructed with floor levels above 30 feet.

Therefore, the project as approved by the County raises substantial issues of conformance with the LCP tsunami hazard policies even though the applicant indicates he intends to construct the approved homes with floor elevations at an elevation of 34 feet above mean sea level.

The safety of new development from flooding associated with tsunami wave run-up is an issue of increasing regional, state, and national significance. The devastating effects of the 2004 Indian Ocean tsunami demonstrate that tsunamis are a real and present danger to low lying coastal areas and have heightened concerns about tsunami preparedness. The better mapping in recent years of projected tsunami wave run-up areas demonstrates that the risk of tsunami flooding affects large areas of the coast of California and the nation.

In addition, as the County did not examine alternatives for siting or developing homes on the subject property in a manner that would located livable spaces above tsunami wave run-up elevations, the degree of legal and factual support for the County's decision is not sufficient to demonstrate that the approved development will minimize risks to life and property in areas of high geologic and flood hazard. Therefore, the Commission finds that the approved project raises a substantial issue of conformance with the hazard policies of the certified LCP, including (a) the provisions of Section 30235 of the Coastal Act and the certified LUP to which Section 30235 has been incorporated that new development minimize risks to life and property in areas of high geologic and flood hazard, and (b) the provisions of Zoning Code Section 313-121.7.3 that developments shall be sited and designed to assure stability and structural integrity for their expected economic life spans.

**2. Conclusion.**

All of the various foregoing contentions have been evaluated against the claim that they raise a substantial issue of conformance of the local approval with the certified LCP. The Commission finds that, as discussed above, the appeal raises a substantial issue with respect to the conformance of the approved project with the policies of the LCP requiring that new development minimize risks to life and property in areas of high geologic and flood hazard.

**E. INFORMATION NEEDED FOR *DE NOVO* REVIEW OF APPLICATION**

As stated above, Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which an appeal has been filed. Section 30621 of the Coastal Act instructs the Commission to provide for a *de novo* hearing on all appeals where it has determined that a substantial issue exists with respect to the grounds on which an appeal has been filed. If the Commission finds substantial issue as recommended above, staff also recommends that the Commission continue the *de novo* portion of the appeal hearing to a subsequent date. The *de novo* portion of the appeal hearing must be continued because the Commission does not have sufficient information to determine how development can be approved consistent with the certified LCP.

Given that the project the Commission will be considering *de novo* has come to the Commission after an appeal of a local government action, the Commission has not previously been in the position to request information from the applicant needed to determine if the project can be found to be consistent with the certified LCP. Following is a discussion of the information needed to evaluate the development.

## 1. Environmentally Sensitive Riparian Habitat Assessment

As noted above in the Project and Site Description finding, the development site is located adjacent to dune hollow wetlands. In addition, the biological assessment indicates that the area immediately upland of the wetland, near the base of the slope that separates the approved residential construction and the delineated wetland, is vegetated with such species as hooker willow (*Salix hookeriana*), evergreen huckleberry (*Vaccinium ovatum*), bracken fern (*Pteridium aquilinum*), sweet vernal grass (*Anthoxanthum odoratum*) and California blackberry (*Rubus ursinus*). These species are commonly found in riparian habitats. As the vegetation is relatively dense and is adjacent to a delineated wetland area, this vegetation upslope of the wetland may provide significant habitat values and may qualify as riparian environmentally sensitive habitat (ESHA).

The Humboldt County LCP defines riparian habitats associated with wetlands as environmentally sensitive habitat areas (ESHA). The LCP incorporates Coastal Act Sections 30107.5 and 30240 that define environmentally sensitive habitat areas and provide for the protection of these areas from adjacent development.

Section 30107.5 of the Coastal Act defines "environmentally sensitive habitat area" as:

*any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

Section 30240 of the Coastal Act states in part that:

*(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.*

*(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

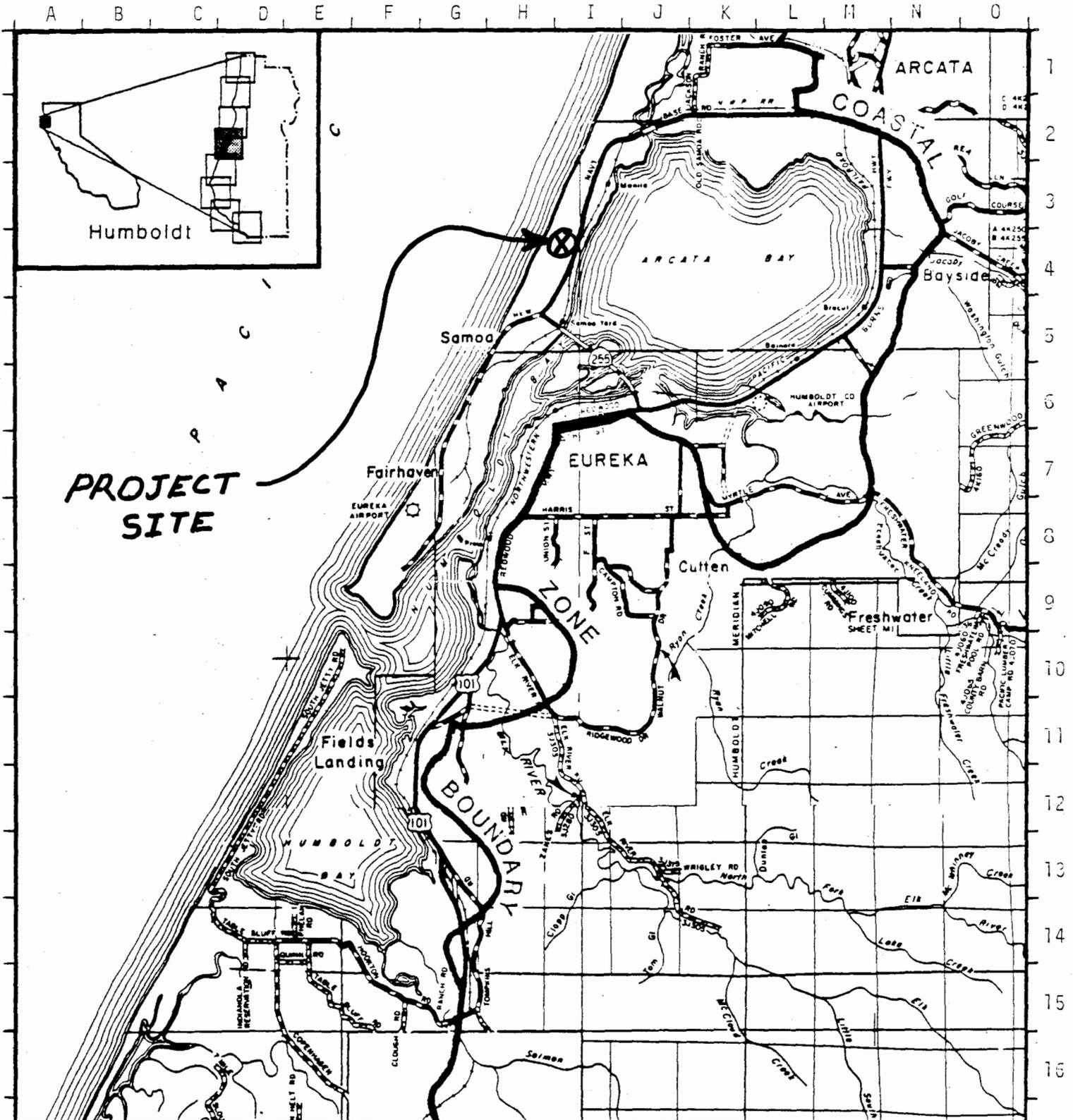
Although the County required wetland buffers to protect the dune hollow wetland from the impacts of the approved residential development, the County's approval did not analyze whether the vegetation containing riparian species between the wetland and the development site is riparian ESHA habitat and whether the required buffer should be modified to protect this habitat. Therefore, to evaluate the consistency of the proposed project with LCP policies regarding new

development adjacent to ESHA, an assessment of this riparian vegetation is required. The assessment should be prepared by a qualified biologist and should include: (1) a determination of whether the vegetation constitutes riparian ESHA habitat, (2) an evaluation of the potential impacts and disturbance to the ESHA as a result of the residential development, and (3) a discussion of any recommended mitigation measures to ensure that the development would be sited and designed in a manner that would prevent impacts that would significantly degrade the area and provide for the continuance of the dune habitat.

Without the above information, the Commission cannot reach a final determination concerning the project's consistency of the project with the ESHA protection policies of the LCP. Therefore, before the Commission can act on the proposed project *de novo*, the applicant must submit all of the above-identified information.

**III. EXHIBITS:**

1. Regional Location Map
2. Vicinity Map
3. Assessors Map
4. Zoning Map
5. Proposed Parcels and Site Plan
6. Wetland Delineation
7. Notice of Final Local Action
8. Appeal, filed September 19, 2006 (Wan & Caldwell)
9. Applicant's Correspondence



**PROJECT SITE**



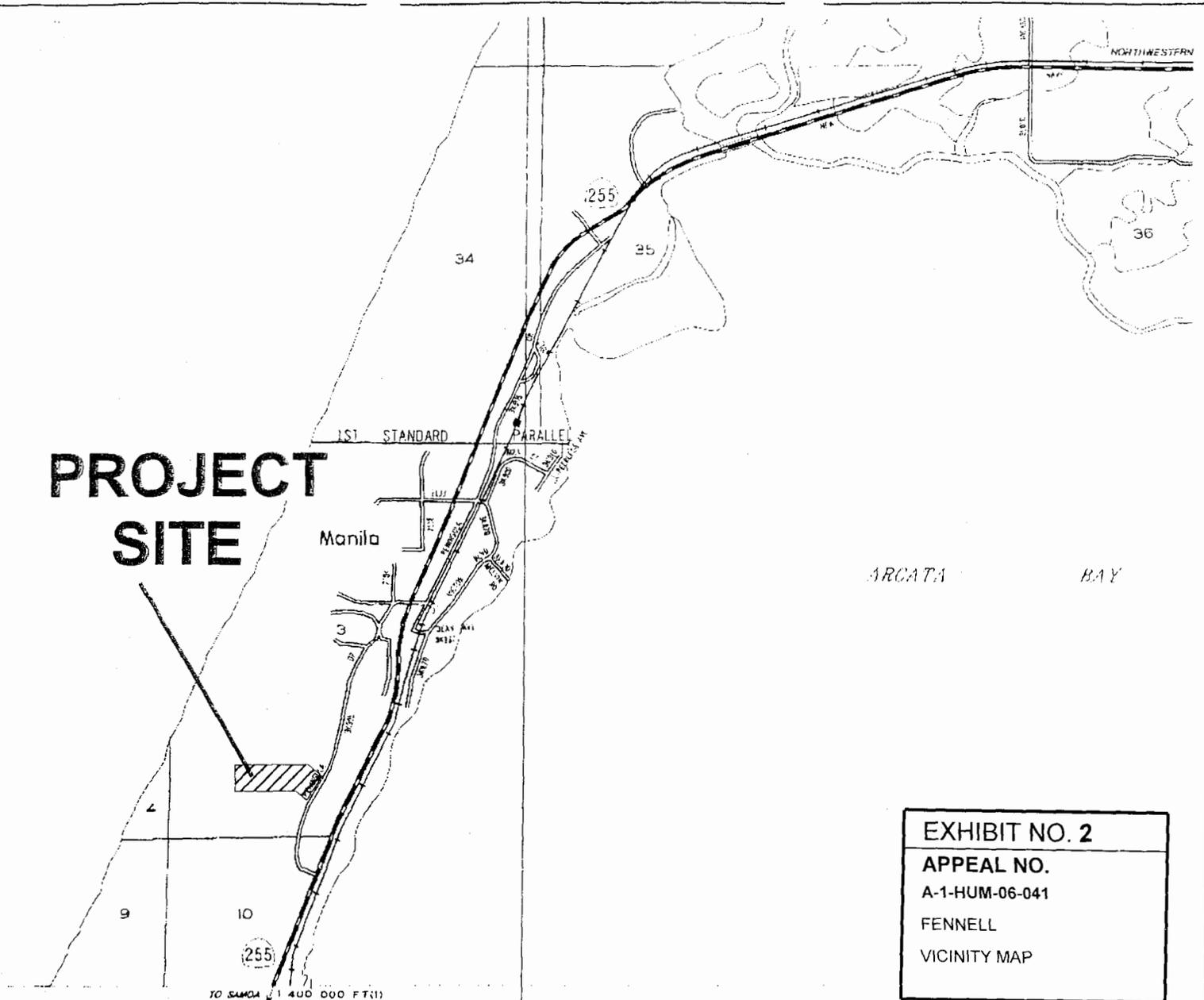
**LOCATION MAP**

County of Humboldt

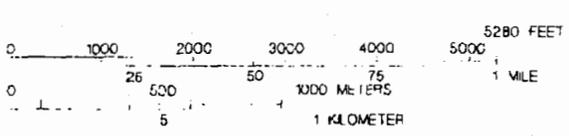
EXHIBIT NO. 1  
 APPEAL NO.  
 A-1-HUM-06-041  
 FENNEL  
 REGIONAL LOCATION



# PROJECT SITE



**EXHIBIT NO. 2**  
**APPEAL NO.**  
 A-1-HUM-06-041  
**FENNEL**  
 VICINITY MAP



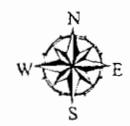
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URBAN AREA	1990
CITY LIMIT	2-3-94
COUNTY MAINT	5-7-73

- STATE BOUNDARY
- COUNTY BOUNDARY
- CITY BOUNDARY
- PARK OR RESERVATION BOUNDARY
- RANCHO BOUNDARY
- URBAN AREA BOUNDARY
- STATE HIGHWAY-ADOPTED
- PROPOSED ROAD
- BRIDGE - GRADE SEPARATION
- TUNNEL

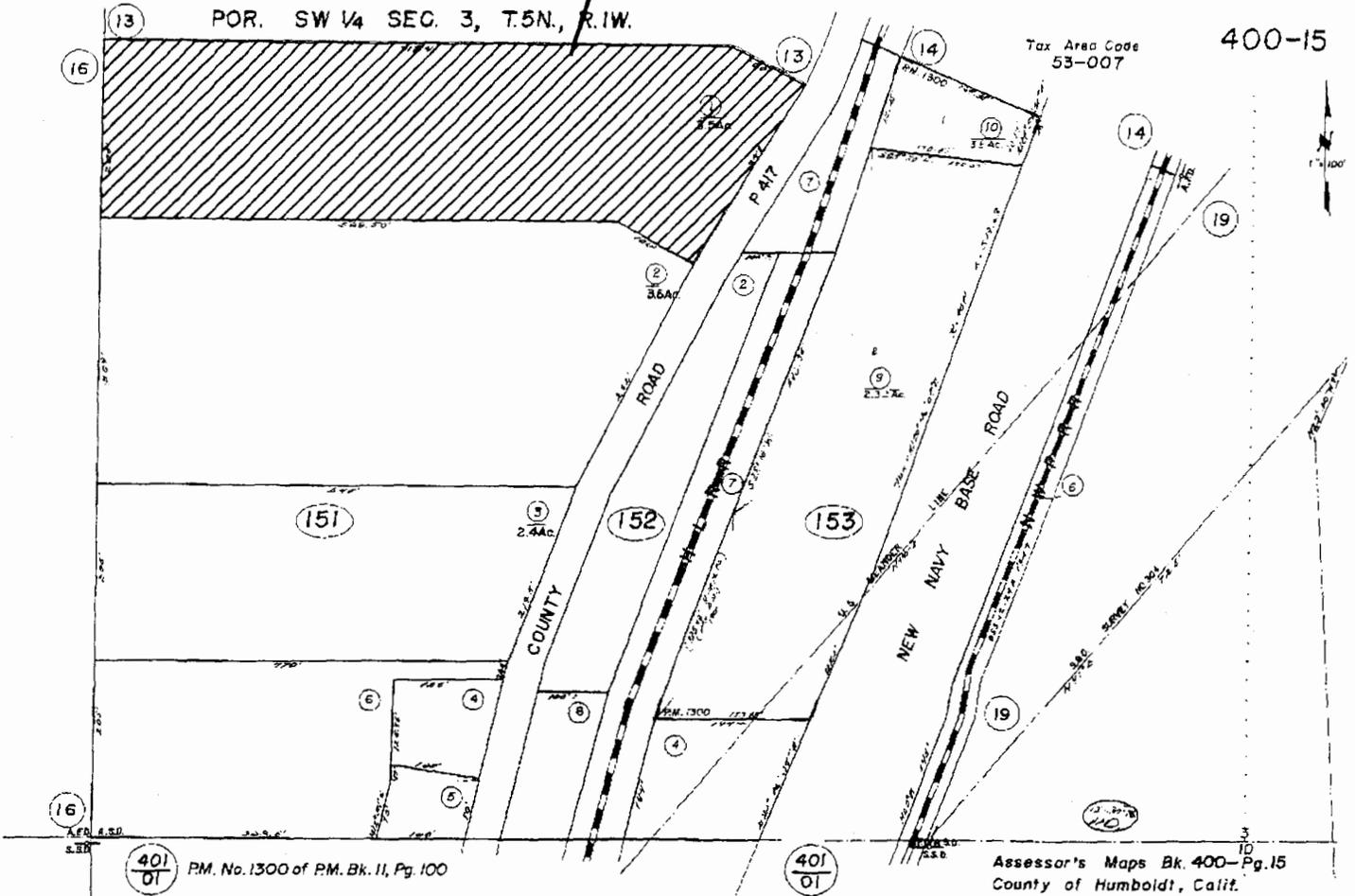
- SIGN ROUTES
- (5) INTERSTATE
  - (50) U.S.
  - (49) STATE
  - (38) COUNTY
  - (49) STATE HIGHWAY
- INTERSTATE  
 FREEWAY AND EXI  
 OTHER  
 MINOR  
 C

B	C	D	E	F	G
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**PROPOSED FENNEL PARCEL MAP SUBDIVISION,  
 COASTAL DEVELOPMENT & SPECIAL PERMITS  
 MANILA AREA PMS-05-22/CDP-05-47/SP-05-62  
 APN: 400-151-01  
 SECTION 3 T5N R1W H. B. & M.  
 LOCATION MAP**



# PROJECT SITE



NOTE - Assessor's Block Numbers Shown in Ellipses  
 Assessor's Parcel Numbers Shown in Circles

**EXHIBIT NO. 3**  
**APPEAL NO.**  
 A-1-HUM-06-041  
**FENNELL**  
**ASSESSORS MAP**

**PROPOSED FENNELL PARCEL MAP SUBDIVISION,**  
**COASTAL DEVELOPMENT & SPECIAL PERMITS**  
**MANILA AREA PMS-05-22/CDP-05-47/SP-05-62**  
**APN: 400-151-01**  
**SECTION 3 T5N R1W H. B. & M.**  
**ASSESSOR PARCEL MAP**



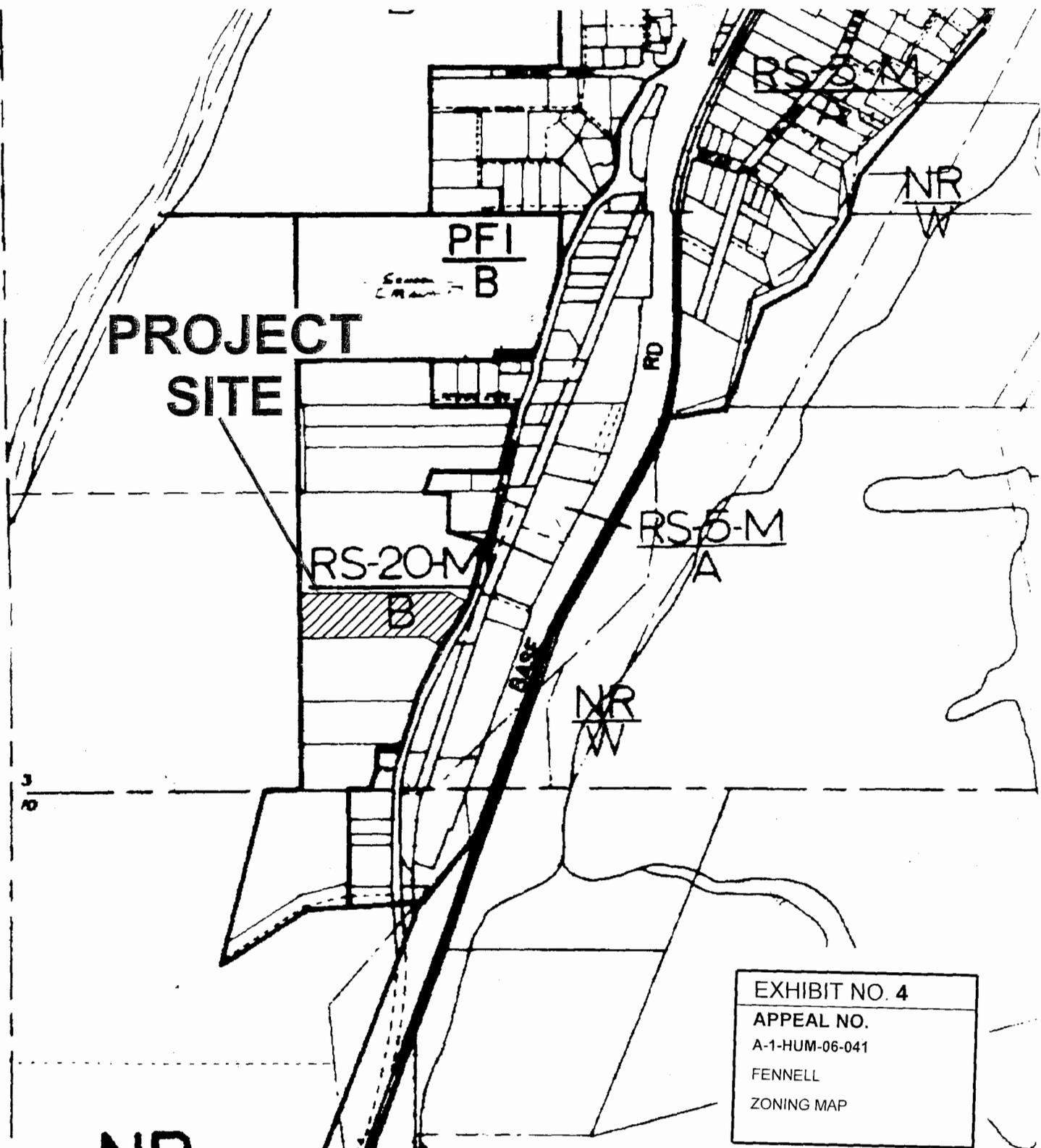
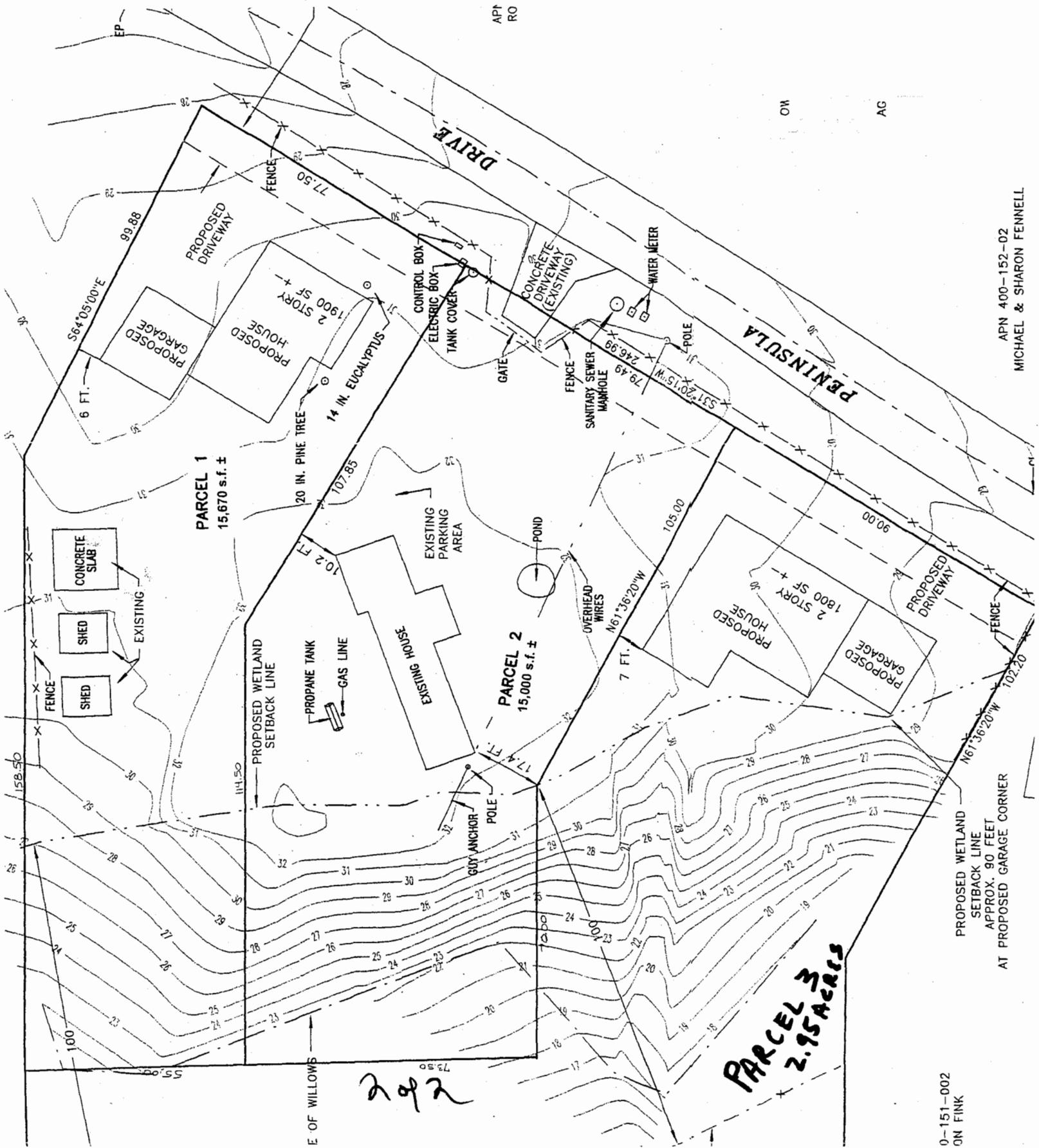


EXHIBIT NO. 4  
 APPEAL NO.  
 A-1-HUM-06-041  
 FENNELL  
 ZONING MAP

**PROPOSED FENNELL PARCEL MAP SUBDIVISION,  
 COASTAL DEVELOPMENT & SPECIAL PERMITS  
 MANILA AREA PMS-05-22/CDP-05-47/SP-05-62  
 APN: 400-151-01  
 SECTION 3 T5N R1W H. B. & M.  
 ZONING MAP**







292

**PARCEL 3**  
2.95 ACRES

APT  
RO

OM

AG

**MAD  
RIVER  
BIOLOGISTS**

920 Samoa Boulevard, Suite 210, Arcata, CA 95521

Voice: 707/826-0300 • Fax: 707/826-0540 • E-mail: MRB@madriverbio.com

Wetland Delineation

1501 Peninsula Drive, Manila, California  
APN 400-151-01

December 20, 2005

RECEIVED

5 2006

HUMBOLDT COUNTY  
PLANNING COMMISSION

Prepared for: Michael and Sharon Fennell  
1480 Peninsula Drive  
Manila, CA 95521

Prepared by: Mad River Biologists  
Key Staff: Stephanie Morrissette  
[stephanie@madriverbio.com](mailto:stephanie@madriverbio.com)

*Stephanie Morrissette*

EXHIBIT NO. 6
APPEAL NO. A-1-HUM-06-041
FENNELL
WETLAND DELINEATION (1 of 10)

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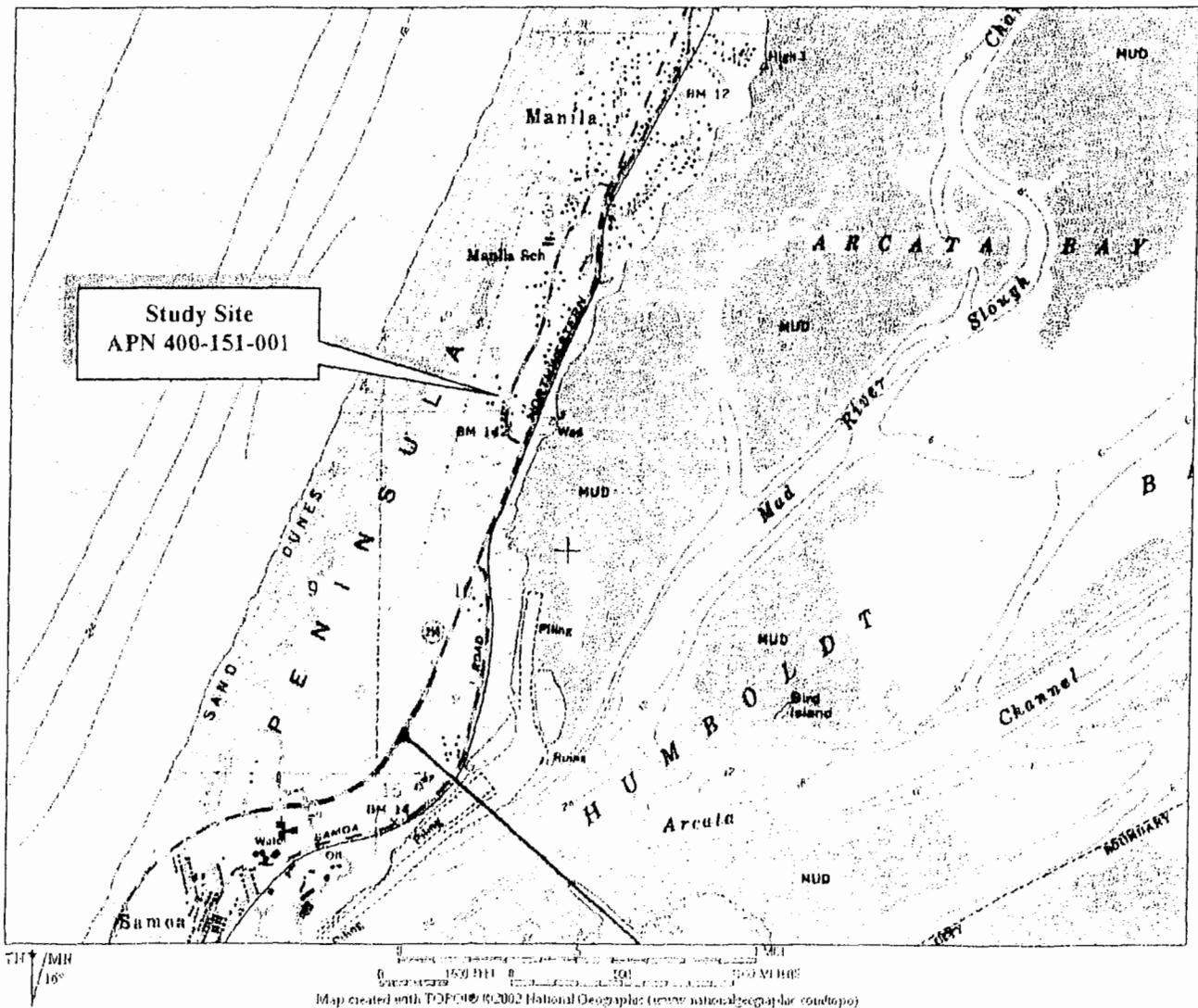
2 of 10

## I. Introduction

In April of 2005, Mad River Biologists (MRB) conducted a routine wetland delineation on a 3.66-acre parcel located off Peninsula Drive in the community of Manila, Humboldt County, California (Figure 1). The property owners, Michael and Sharon Fennell, are seeking to subdivide the property into three lots and develop them for single family housing.

Proposed development is currently sited in upland areas along the east side of the property where it borders Peninsula Drive. The west side of the property supports a woody dune hollow wetland and upland dune habitat. The purpose of the delineation was to document the boundary between wetland and upland habitats in the vicinity of proposed development in order to identify appropriate development setbacks. The following report includes the results of the delineation as well as recommendations for avoiding impacts to wetland habitats.

**Figure 1. Project Location Map**



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## II. Methods

The wetland delineation was performed by MRB biologist Stephanie Morrissette on April 11, 2005, which was near the end of the rainy season for this region. It was conducted in accordance with the U.S. Army Corps of Engineers (ACOE) Wetland Delineation Manual (Environmental Laboratory 1987). The ACOE utilizes a three-parameter method for making wetland determinations. It is based on the presence of indicators for 1) wetland hydrology (permanent or periodic inundation or saturation of the soil to the surface at some time during the growing season of the prevalent vegetation), 2) a predominance of hydrophytic vegetation (plants adapted to anaerobic conditions resulting from a prolonged inundation with water) and 3) hydric soils (soils that become saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions that favor the growth of hydrophytic vegetation).

Three transects were established perpendicular to the dominant drainage pattern of the site between upland areas at the east end of the property and the dune hollow wetland further west. Soil pits were dug to collect and evaluate vegetation, soils and hydrology data within upland, transitional, and wetland areas along each transect. On-site wetlands were delineated to the extent necessary to identify appropriate setback distances from proposed development. The wetland boundary was marked in the field using pink flagging, and soil pits were identified with blue pin flags. White flagging was also used to denote the edge of 'riparian vegetation' associated with the wetland (i.e. extent of willow habitat growing in upland dunes). Licensed land surveyor, Michael O'herm, surveyed and mapped the wetland boundary and the extent of the associated riparia. The proposed subdivision/wetland delineation map is included as Attachment 1 to this report.

### *Data Collection*

Herbaceous vegetation and saplings/shrubs were identified within a five-foot radius of each soil pit, and trees were identified within a 30-foot radius of each pit, as per ACOE methodology. Determinations for dominant vegetation were made using visual estimations of percent cover for each stratum (tree, sapling/shrub, and herb) and applying the "50/20" rule. The 50/20 rule indicates that all vegetation be ranked in descending order by percent cover for each stratum and cumulatively totaled. Species that cumulatively total 50%, plus any additional species that comprise 20% or more of the cover for each stratum are considered dominants.

Plants addressed in the wetland study were identified by their assigned wetland status indicator, taken from the *National List of Plant Species That Occur in Wetlands: 1988 National Summary* (Reed), as defined below (except as otherwise noted). Nomenclature for all species listed in this report follows *The Jepson Manual: Higher Plants of California* (Hickman 1993).

- OBL = Obligate Wetland. Occur in wetlands under natural conditions at an estimated probability > 99%.
- FACW = Facultative Wetland. Usually occur in wetlands (estimated probability 67%-99%), but occasionally found in non-wetlands.
- FAC = Facultative. Equally likely to occur in wetlands or non-wetlands (estimated probability 34%-66%).
- FACU = Facultative Upland. Usually occur in non-wetlands (estimated probability 67%-99%), but occasionally found in wetlands (estimated probability 1%-33%).

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- UPL = Obligate Upland. Occur in wetlands in another region, but occur almost always (estimated probability > 99%) under natural conditions in non-wetlands in the region specified.
- NI = Not Indicated. Recorded for those species for which insufficient information was available to determine an indicator status.
- NL = Not Listed, generally considered upland.
- \* = Tentative assignment due to limited information.

Soil colors were described using *Munsell Soil Color Charts* (2000). Hydric soil determinations are based upon hydric soil indicators that include either a chroma color of 1, or a chroma of 2 with oxidation-reduction (redox) features present. Redox features in the soil usually result from the presence of periodic reducing soil conditions. Soils with bright redox features and/or low matrix chroma are indicative of a fluctuating water regime. However, ACOE does not consider low-chroma colors to be a good hydric indicator in sandy soils unless additional hydric indicators further support such a designation. Other hydric soil indicators utilized for this delineation include an evaluation of organic content, organic streaking, reducing conditions and aquic moisture regime in the upper horizon of the soil profile.

Wetland hydrology determinations were based upon the presence of at least one primary indicator (such as inundation or saturation in the upper 12 inches of soil) or at least two secondary indicators, as per ACOE methodology. The presence of oxidized root channels (rhizospheres) in the upper twelve inches is considered a secondary wetland hydrology indicator, and suggests that soils likely fluctuate between wet and dry for significant periods of time. At least two secondary indicators are required for a wetland hydrology determination when a primary hydrology indicator is lacking. Another common secondary indicator is the use of the fac-neutral test, wherein plant species with a facultative designation are disregarded (due to their versatility in upland and wetland environments), and the remaining dominants are considered.

### III. Site Description

The subject property is located west of Peninsula Drive near the south end of the community of Manila on the Samoa Peninsula, or "North Spit" of Humboldt Bay. Samoa Peninsula is a 17-mile long barrier sand spit enclosing the northern section of Humboldt Bay from the Pacific Ocean. While much of the peninsula has been developed for industrial and residential use, upland dune communities, estuarine wetlands and freshwater wetlands (in the form of dune hollows) are found throughout the spit along its length.

There is an existing residence on the east side of APN 400-151-01. Upland areas adjacent to the house have been maintained as lawn and garden areas and consequently support a high cover of exotic annual grasses and other herbaceous species such as quaking grass (*Briza maxima* - FAC), sweet vernal grass (*Anthoxanthum odoratum* - FACU), European hairgrass (*Aira caryophyllea* - NL), ripgut grass (*Bromus diandrus* - NL), subterranean clover (*Trifolium subterranean* - NL), black mustard (*Brassica nigra* - NL), English plantain (*Plantago lanceolata* - FAC-), and sea fig (*Carpobrotus* sp. - NL) as well as several ornamentals. The substrate here is a mix of native sand and gravel fill that was used in the construction of Peninsula Drive and the existing residence. This portion of the property is not ideally suited for any state or federally-listed, or otherwise special status plants, known to occur in the dune environs of the peninsula such as beach layia (*Layia carnosa*), Humboldt Bay wallflower (*Erysimum menziesii* spp. *humboldtiensis*), dark-eyed gilia

(*Gilia millefoliata*) or pink sand verbena (*Abronia umbellatum* ssp. *breviflora*). Furthermore, no evidence of these species or representative genera, were identified upon careful examination of proposed development areas during the April 11<sup>th</sup> site visit.

Approximately twenty-five feet west of the existing residence, the topography begins to slope down at a more or less 40 to 45% grade into a woody dune hollow that extends westward until it abuts interior foredunes at the far west end of the property. This hollow also extends south and north onto adjacent properties. The hollow represents a seasonally inundated freshwater wetland dominated by a high cover of woody shrubs and small trees (up to 6 meters in height) and a dense herbaceous layer of obligate hydrophytes. The U.S. Fish and Wildlife Service classify woody hollows such as these as Palustrine (freshwater) Scrub-shrub, Seasonally flooded/saturated, Broad-leaved deciduous wetlands, abbreviated as PSS1E (Cowardin et. al. 1979).

### Vegetation

The vegetation series associated with the wetland corresponds to the Hooker Willow Series described by Sawyer & Keeler-Wolf in *A Manual of California Vegetation* (1995). Dominant species within the wetland near the upland boundary include Hooker willow (*Salix hookeriana* - FACW), Pacific wax myrtle (*Myrica californica* - FAC), Pacific crab apple (*Malus fusca* - FAC), California blackberry (*Rubus ursinus* - FAC<sup>1</sup>), and slough sedge (*Carex obnupta* - OBL). Transitional wetland areas (generally associated with the toe of the slope leading down into the hollow) are dominated by many of the same species listed above, but also include silk tassel (*Garrya elliptica* - NL), bee plant (*Scrophularia californica* - FAC), and creeping bentgrass (*Agrostis stolonifera* - FACW).

Upland areas on the slope immediately adjacent to the hollow also exhibit a high cover of Hooker willow, represented primarily by overhanging limbs from trees rooted in lower elevation wetland areas. This species is known to act as a phreatophyte (i.e. plant with long roots capable of tapping into the seasonally high fresh water table) and can also withstand some degree of burial by moving dunes. Dominant associates in upland areas where Hooker willow is present include evergreen huckleberry (*Vaccinium ovatum* - NL), bracken fern (*Pteridium aquilinum* - FACU), sweet vernal grass (*Anthoxanthum odoratum* - FACU), and California blackberry - FAC+. Beyond the edge of the willow canopy, the vegetation consists primarily of upland-associated exotic annual grasses and herbs as previously described.

### Soils and Hydrology

The substrate within the wetland is a low chroma, "black" (2.5 Y 2.5/1) sandy loam that, at the time of the investigation, was saturated near the wetland boundary, and typically inundated within 1 to 3 feet of the wetland boundary. Redox features were not identified in any soil pit dug on site, but wetland areas exhibit a high degree of decomposed organic matter in the upper soil profile compared to upland areas.

The wetland/upland boundary is marked by a distinct shift in elevation from lower elevation areas that support sandy loam soils to the adjacent, steeply sloped upland dune comprised of sand (2.5 Y

<sup>1</sup> The draft 1996 National Summary of the *National List of Vascular Plant Species that Occur in Wetlands* (USFWS) lists *Rubus ursinus* as FAC+ rather than FACW, as it is in the 1988 National Summary. In the Northwest Region (which includes Oregon) this species is assigned a FACU wetland indicator status. The 1996 FAC+ assignment is considered appropriate for the Northcoast of California and has thus been used for this study.

3/2). Upland areas do not exhibit any primary hydrology indicators, and never more than one secondary hydrology indicator, and that being a positive FAC-Neutral Test, which is based on vegetation.

#### IV. Results and Recommendations

The wetland boundary is depicted on the proposed subdivision map included as Attachment 1. Soil pit data and corresponding wetland determinations are provided in Table 1 below. Wetland delineation data forms are provided in Attachment 2.

**Table 1 Summary of Soil Pit Data and Wetland Determination**

Transect	Soil Pit	Hydrophytic Vegetation	Wetland Hydrology	Hydric Soils	Determination
1	A	No	No	No	Upland
1	B	Yes	No	No	Upland
1	C	Yes	No	No	Transitional Area
1	D	Yes	Yes	Yes	Wetland (PSS1E)
2	A	Yes	No	Yes	Boundary
2	B	Yes	Yes	Yes	Wetland (PSS1E)
3	A	Yes	No	No	Boundary
3	B	Yes	Yes	Yes	Wetland (PSS1E)

Wetlands occurring on the property are considered "Waters of the United States" by the Federal government and are subject to the jurisdiction of the U.S. Army Corps of Engineers (ACOE) under Section 404 of the Clean Water Act. In the state of California, development within wetlands also falls under the policy of the California Department of Fish and Game (DFG). DFG does not have permitting jurisdiction, but serves in an advisory capacity with regard to the fill and/or alteration of wetlands, and is generally a commenting agency for projects subject to local, county and/or state environmental review processes.

Providing all proposed development is sited in upland areas, and does not result in the disposal of dredged or fill material into the adjacent wetland, an ACOE permit will not be required. The Humboldt County Planning Department retains permit jurisdiction for the subject property and is the responsible agency for insuring that the proposed subdivision and subsequent development is consistent with Humboldt County development policies.

#### *Applicable Development Policy*

The property occurs within the Coastal Zone of Humboldt County. Development of the parcel is subject to policies outlined in the Humboldt Bay Area Plan (HBAP) of the Humboldt County Local Coastal Program (LCP). Under section 3.30B6c, the HBAP states that for new development within an urban limit line, the wetland setback shall be either 100 feet or the average setback of existing development immediately adjacent as determined by the "string-line method". The "string-line method" shall be used which provides development setbacks similar to those occurring on adjacent parcels and adequately protects wetlands. Section 3.30B6e states that setbacks of less than the distance specified above may be permitted only when the prescribed buffer would prohibit development of the site for the principle use for which it is designated. Any such reduction in

setback shall still retain the maximum setback feasible, and may require mitigation measures, in addition to those specified in section 3.30B6f (below), to ensure new development does not adversely affect the wetland's habitat values.

Section 3.30B6f of the HBAP states that all new development within the wetland buffer shall include the following mitigation measures:

- (1) Not more than 25% of the lot surface shall be effectively impervious.
- (2) The release rate of storm runoff to adjacent wetland shall not exceed the natural rate of storm runoff for a 50 year storm of 10 minute duration.
- (3) Storm water outfalls, culverts, gutters, and the like shall be dissipated.
- (4) Septic systems or alternative waste disposal systems must meet standards of the Humboldt-Del Norte Health Department and the Regional Water Quality Control Board.
- (5) Areas disturbed during construction, grading, etc., within 100 feet of the mean high water line, shall be restored to original contours and sufficiently and promptly replanted with vegetation naturally occurring in the immediate area.
- (6) Development and construction shall minimize cut and fill operations and erosion and sedimentation potentials through construction of temporary and permanent sediment basins, seeding or planting bare soil, diversion of runoff away from graded areas and areas heavily used during construction, and when feasible, avoidance of grading during the raining season.

#### *Recommendations*

Upland areas that exhibit willow cover were not considered wetlands due to the absence of wetland hydrology and hydric soils; however these areas are in a riparian position to the adjacent hollow and serve as a natural buffer for the wetland. This riparia has been mapped on the attached wetland delineation map as "edge of willows". DFG typically recommends a 25-foot buffer from the edge of riparian vegetation such as this from new development. Due to the configuration of the property, this buffer is generally included in the minimum 100-foot wetland buffer required by the County. In any case, this vegetation should be retained and not cut-back to accommodate site development.

There is sufficient room on the property to allow a three-way subdivision with adequate wetland setbacks from new residential development. Parcels 1 and 2 allow for wetland setbacks greater than 100 feet (125 feet and 105 feet, respectively). Parcel 3 allows for a 95-foot setback from the proposed house and a 90-foot setback from the attached garage, thereby requiring a slight reduction in the standard 100-foot buffer. This reduction does not pose a significant impact to the adjacent wetland, since there exists on site a well-developed natural vegetative buffer of willow between the wetland and the proposed building site (the buffer between proposed development on Parcel 3 and the edge of the willow habitat is 45-feet).

A 10-foot reduction in the standard setback may be permitted for parcel 3 providing that proposed development is designed in such a way to avoid erosion, sedimentation and pollution of the wetland. Appropriate impact-avoidance measures include:

- 1) Positioning all high use areas such as walkways, points of entry, parking areas, and decking as far away as possible from the wetland, and/or establishing fencing between residential areas and wetland areas to limit access and potential anthropogenic disturbances.

- 2) Minimizing the amount of impervious substrate by constructing driveways, walkways and parking areas within or adjacent to buffer areas out of a porous paving material or gravel, and/or directing runoff away from the wetland to an on-site storm water detention basin.
- 3) Limiting vegetation removal in upland areas and re-planting construction areas immediately upon completion of the project to avoid erosion and maintain a vegetative buffer between developed areas and the adjacent wetland.

## V. References and Literature Cited

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- Cowardin L. M., V. Carter, F. C. Golet, and E. T. LaRoe. 1979. *Classification of wetlands and deepwater habitats*. United States Fish and Wildlife Service, Washington, D.C.
- Environmental Laboratory. 1987. Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1. Department of the Army Waterways Experiment Station, Corps of Engineers, Vicksburg, Miss.
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- Reed, Porter B. Jr., 1996. National List of Plant Species That Occur in Wetlands: 1996 National Summary. Compiled by National Ecology Research Center, U.S. Fish and Wildlife Service.
- Sawyer, J.O., and T. Keeler-Wolf. 1995. *A manual of California vegetation*. California Native Plant Society, Sacramento, CA.
- U.S. Army Corps of Engineers. 1987. *Corps of engineers wetlands delineation manual*. U.S. Army Corps of Engineers, Wetlands Research Program Vicksburg, MS. Technical Report Y-87-1.

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Attachment 1 Wetland Delineation Map

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# COUNTY OF HUMBOLDT

STEPHEN A. STRAWN  
TREASURER-TAX COLLECTOR

825 FIFTH STREET ROOM 125  
EUREKA, CALIFORNIA 95501

PHONE: 707-476-2450

FAX: 707-445-7608

TOLL FREE: 877-897-5692

EMAIL: [taxinfo@co.humboldt.ca.us](mailto:taxinfo@co.humboldt.ca.us)

## *IMPORTANT INFORMATION*

TO ANYONE PLANNING SUBDIVISION OR  
ANY COMBINATIONS OF LAND PARCELS

**IT IS VERY IMPORTANT THAT ALL WORK BE COMPLETED AND THE MAP  
BE RECORDED BY DECEMBER 31, OR THE TAXES FOR THE NEXT FISCAL  
YEAR BECOME A LIEN ON THE PROPERTY!**

Please be aware that before maps can be recorded for subdivisions or combinations, all the property taxes for the year, any back taxes, and most assessments ***MUST BE PAID IN FULL***.

The staff of the Treasurer-Tax Collector's office will research the parcel (s) involved and advise of any delinquent and current taxes, assessment, and if it will be necessary to pay a tax performance bond. The Treasurer-Tax Collector's office will collect an ***application fee of \$97.00***. Contact the Treasurer-Tax Collector's staff at 707-476-2450 for further information and to obtain the amount of the performance tax bond.

If the map is recorded between:

1. **January 1, through October 31:**
  - A.) All delinquent property taxes (secured and unsecured) **must be paid in full.**
  - B.) Bonded assessments usually **must be paid in full**
  - C.) Current fiscal years taxes **must be paid in full.**
  - D.) A deposit in the estimated amount of the tax for the next fiscal Year, which became a lien on January 1, **must be posted** with the Treasurer.
  
2. **November 1 through December 31:**
  - A.) All delinquent property taxes (secured and unsecured) **must be paid in full.**
  - B.) Bonded assessments usually must **be paid in full.**
  - C.) Current fiscal year taxes **must be paid in full**

We request that you contact the Treasurer-Tax Collector ***NOW*** and not wait until you are ready for recording the subdivision maps. This will allow you more time to prepare and plan for the payments and avoid delays and additional costs.

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PLANNING DIVISION  
COMMUNITY DEVELOPMENT SERVICES

**COUNTY OF HUMBOLDT**

3015 H STREET  
EUREKA, CALIF. 95501-4484 PHONE (707) 445-7541

Dear Applicant:

The Humboldt County Planning Commission has tentatively approved the referenced Subdivision. The Planning Commission's decision on the project may be appealed to the Humboldt County Board of Supervisors by any aggrieved person within ten (10) calendar days\* of the Planning Commission's action. Such an appeal must be submitted in writing within the ten (10) calendar day\* appeal period with the required fees to the Planning Division of the Humboldt County Community Development Services and the Clerk of the Board. If no appeal is received, the tentative map approval is effective on the day following the last day of the appeal period. For more information concerning the appeal process or for filing an appeal, please contact the Planning Division of the Humboldt County Community Development Services. (Appeals must be filed in the Planning Division office, Room 1 of the Clark Complex, Mondays through Fridays, 8:30 a.m. to 5:00 p.m. and the Clerk of the Board's office, Room 111 of the County Courthouse, Monday through Friday 8 a.m. to noon & 1 p.m. to 5:00 p.m.)

This is to advise you of the Planning Commission's action, and to inform you of the conditions of approval and the steps you will need to take to complete the subdivision.

The Planning Commission's approval is subject to the attached conditions. These conditions are a mandatory part of the subdivision. Verification that these conditions have been completed must be submitted to the Planning Division of the Humboldt County Community Development Services. If you believe some of the conditions are improper or excessive, you may petition the Planning Division of the Humboldt County Community Development Services for an amendment or exception to the conditions. The petition must be submitted in writing, stating fully the grounds for the petition and the facts relied upon. If the petition is denied, you may appeal to the County Board of Supervisors.

If you petition for amendment or exception to the conditions, you must do so before the effective date. Otherwise, the conditions will become final and may not be changed without reconsideration of the total project. Therefore, we encourage you to immediately review the conditions and discuss them with your agent as soon as possible.

**The Planning Commission's approval will expire twenty-four (24) months from the effective date.**

If the subdivision cannot be completed within said twenty-four month period, you may apply to the Planning Division of the Humboldt County Community Development Services for an extension. The expiration date of the approval may be extended for twelve (12) to twenty-four (24) months, but for no longer than a total of five (5) years. Applications for such extensions must be submitted before the scheduled expiration date, accompanied by the appropriate fees, and may be accepted as an extension only when the circumstances and conditions of the original approval have not changed. If the subdivision cannot be completed before the approved permit expires, a new application must be filed. The new application will require additional fees and may be subject to different requirements and standards.

To complete the subdivision, you will need to record a Parcel or Final Map. This map must conform to the approved tentative subdivision map and comply with the conditions thereof, and cannot be recorded until the attached conditions of approval have been satisfied. Also, note that one cannot sell, lease, or develop any portion of the property prior to the recordation of the map. The map must be prepared by a

-OVER-

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Subdivision Letter  
Page Two

registered engineer or licensed surveyor, and must be based on a survey of the property. Any questions you may have about the map or other deed instruments should be directed to the County Department of Public Works, Land Use Division at 445-7205.

You may be required by the State Department of Real Estate to file a Public Report on the subdivision. You should contact the Department as early as possible to initiate the preparation of such a Report, if needed.

When the Parcel or Final Map has been prepared, submit a copy to the Planning Division of the Humboldt County Community Development Services for review as to conformance with the tentative map. At the same time you may begin the parcel or final map checking process with the Department of Public Works, Land Use Division. Contact this office at 445-7205 for instructions. Only after all conditions of the subdivision have been satisfied and the parcel or final map has been approved as to form and content may the original Mylar version of the parcel or final map be filed with the Department of Public Works for recordation. Please note that fees will be charged by the Department of Public Works when the map is submitted for checking and recordation.

If you have any questions regarding this matter, please contact this office at your convenience.

Kirk Girard, Director  
PLANNING DIVISION OF THE HUMBOLDT  
COUNTY COMMUNITY DEVELOPMENT SERVICES

\* If the "Calendar day" appeal period ends on a weekend or County recognized holiday, then the appeal period would end on 5:00 p.m. the next business day following the weekend or County recognized holiday.

Attachments: Record of Action  
Agenda Item Transmittal  
Planning Commission Resolution  
Conditions of Approval

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PLANNING DIVISION  
OF THE PLANNING AND BUILDING DEPARTMENT  
**COUNTY OF HUMBOLDT**  
3015 H STREET  
EUREKA, CALIF. 95501-4484      PHONE (707) 445-7541

Dear Applicant:

The Humboldt County Zoning Planning Commission has approved the referenced Special Permit. The notification process has been completed and a public hearing has not been requested to discuss the proposed project. The Planning Commission's decision may be appealed to the Humboldt County Board of Supervisors by any aggrieved person within ten (10) working days of the Commission's action. Such an appeal must be submitted in writing within the ten (10) working day appeal period with the required fees to the Planning Division of the Humboldt County Community Development Services. If no appeal is received, the permit is effective on the day following the last day of the appeal period. For more information about the appeal process or for filing an appeal, please contact the Planning Division at 445-7541. (Appeals must be filed in the Planning Division office, Clark Complex, Monday through Fridays, 8:30 a.m. to 5:00 p.m.)

If the Planning Commission's approval is subject to conditions they are described in an attached staff report (if any). These conditions will need to be met either prior to construction, in association with an approved building permit, or as operational restrictions on the use as more precisely described in the actual condition. In addition, it is your responsibility to obtain all other permits and authorizations applicable to your development including building permits. For information regarding the required permits, contact the Building Inspection Division of Community Development Services at 445-7245. If you have any questions regarding this application, please contact this office at your convenience.

The Planning Commission's approval will expire in two (2) years from the issuance date. If development has not begun before the approval expires, a new application must be filed. The new application will require additional fees and may be subject to different requirements and standards. If development or necessary construction cannot begin within said two (2) year period, you may apply to the Planning Division for an extension. Applications for such extensions must be submitted before the scheduled expiration date, accompanied by the appropriate fees, and may be granted only when: (1) the development has not changed from that for which the permit was granted; and (2) the findings made when the permit was granted can still be made.

PLANNING DIVISION OF THE HUMBOLDT COUNTY  
COMMUNITY DEVELOPMENT SERVICES  
Kirk A. Girard, Director

Attachments

cc:     Owner             Agent (if any)             California Coastal Commission (if in Coastal Zone)

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PLANNING DIVISION  
COMMUNITY DEVELOPMENT SERVICES  
**COUNTY OF HUMBOLDT**  
3015 H STREET  
EUREKA, CALIF. 95501-4484 PHONE (707) 445-7541

Dear Applicant:

The Humboldt County Planning Commission has approved the referenced Coastal Development Permit. The Planning Commission's decision on the project may be appealed by any aggrieved person within ten (10) working days of the Planning Commission's action. In addition, your development is appealable to the State Coastal Commission. There is a State ten (10) working day appeal that begins after the local appeal process ends. You will receive a "Notification of Appeal Period" from the California Coastal Commission. If no appeals are received, the permit is effective on the day following the last day to appeal to the California Coastal Commission. For more information concerning the appeal process or for filing an appeal, please contact the Planning Division of the Humboldt County Community Development Services. (Appeals may be filed in the Planning Division office, Room 1, Mondays through Fridays, 8:30 AM to 5:00 PM).

This is to advise you of the Planning Commission's action and to inform you of the conditions of approval and the steps you will need to complete the Coastal Development Permit.

The Planning Commission's approval will expire in two years from the effective date. If the use or necessary construction has not begun before the approval expires, a new application must be filed. The new application will require additional fees and may be subject to different requirements and standards. If development or necessary construction cannot begin within said two year period, you may apply to the Planning Division of the Humboldt County Community Development Services for an extension. Applications for such extensions must be submitted before the scheduled expiration date, accompanied by the appropriate fees, and may be granted only when the circumstances and conditions of the original approval have not changed.

The Coastal Development Permit may be revoked or rescinded, in whole or in part, if grounds are found to exist in accordance with terms and proceedings of the County Code. Please note that other permits, including a building permit, may be required before the proposed development is commenced. For information regarding the required permits, contact the Building Inspection Division of the Humboldt County Community Development Services at 445-7245.

If you have any questions regarding this application, please contact this office at your convenience.

Kirk Girard, Director  
PLANNING DIVISION OF THE HUMBOLDT  
COUNTY COMMUNITY DEVELOPMENT SERVICES

Attachments: Record of Action  
Agenda Item Transmittal  
Planning Commission Resolution  
Conditions of Approval

cc: California Coastal Commission  
Agent (if any)

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**Commissioner Smith** was not concerned with the amount of cars but with the disarray of the cars that are stored.

**Commissioner Emad** asked that Staff come up with a plan to remove as many cars in 60 days as possible with an end to the project in 2-3 years.

**Commissioner Kelly** understood storage shortages and felt the project needs efficient management.

**THE MOTION WAS MADE (HANSIS/EMAD)** to continue this project to October 5, 2006 and asked that Mr. Marks make progress on the conditions set by staff.

**THE MOTION PASSED BY THE VOTE: 6-0**

**PUBLIC COMMENTS:**

**Debbie Provolt**, Glendale, opposed the proposed Redevelopment Plan for Glendale.

**Bernice Huston**, Glendale, opposed the proposed Redevelopment in Glendale and objected to zoning language in the Fieldbrook Glendale Community Plan.

**Patricia Howell**, Glendale, objected to the proposed Redevelopment and the potential for medium density housing across the street from her home.

**Christopher Beechel**, Glendale, objected to the proposed Redevelopment and rezoning he would like to be excluded in both.

**Nancy Nickols**, Glendale, objects to the proposed Redevelopment and high-density housing on contaminated soil.

**Julie Williams**, NCHB, not in support of Redevelopment, in general, as is currently proposed.

**David Elsebusch**, McKinleyville, not in support of Redevelopment, in general, as is currently proposed.

**PUBLIC HEARINGS**

1. **MICHAEL & SHARON FENNELL, Manila Area (1501 Peninsula Dr.):** a Minor Subdivision of one parcel into three (3) parcels. A Coastal Development Permit is required for the subdivision and the subsequent construction of a single-family residence with an attached garage. A Special Permit is required for an exception to the minimal parcel size; furthermore, the Special Permit will allow a reduction to the wetland buffer area and will allow the two existing sheds to remain plus a single-family residence to be built as a primary residence. NOTE: It is recommended a Mitigated Negative Declaration be adopted. **CASE Nos. PMS-05-22, CDP-05-47 & SP-05-62: File No. APN 400-151-01 (TE)**

*Issues: Wetland buffer*

*Staff report and recommendations:*

**Trevor Estlow** gave the staff report describing the project, the surrounding area, the wetlands, the Coastal Pines and the request for a minor reduction to the buffer set back.

*The public comment period was opened.*

**Michael Fennell**, applicant, explained Public Works requirements for a parking lane, which would require moving a Pacific Gas & Electric power pole, therefore, he asked to use a curb instead of moving the pole. **Commissioner Smith** asked about the use of a Bulb Out and **Commissioner Emad** asked about topography of the property.

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**Miriam Holliman**, Manila, has concerns with overdevelopment, noise and traffic, in addition she submitted supplemental information into the record.

**Tina Christensen**, Hwy 36, supports the project.

**Paul Cienfuegos**, Manila, was concerned with the easements required for the project however, he was assured by staff that the projects easements would match his own. He had no other concern with the project.

**Faith Holliman**, Manila, has concerns about traffic and the effect on her young family and she submitted supplemental information into the record.

*The public comment period was closed.*

*Staff Comments and Commission Discussion:*

**Commissioner Kelly** had concerns about public pedestrian access in the form of sidewalks, curbs and gutters therefore, he would vote no on the project as presently conditioned.

**Commissioner Gearheart** questioned the fence shown on the map. **Bob Bronkall**, LUD, explained the conditions to move the fence. **Gearheart** asked about Bulb-Outs and **Mr. Bronkall** said Bulb-Out possibilities are researched on a case-by-case basis. Furthermore, proposals for Bulb-Outs must reflect sound engineering practice and meet the satisfaction of Public Works. **Commissioner Emad** asked about the department's logic for not requiring curbs, gutters and sidewalks (C/G/S). **Mr. Bronkall** believed that it was the area's design choice not to have C/G/S. **Commissioner Emad** expressed further concern about projects in Manila not including C/G/S. **Staff** explained that Manila is a community in transition toward urbanizing. A useful guide in future projects could be if an area has water and sewer it is nearing urban and the proposed requirement for C/G/S be on one or both sides of the streets or roads. **Commissioner Gearheart** questioned the use of a fence to designate to wetland buffer setback line adjacent to the mapped wetlands. **Commission** and **staff** discussed the rationale for restricting new development in the buffer area, design options for a barrier, and use of the break in slope as a topographic feature that could suffice as a barrier. **Staff** clarified that elimination of the physical barrier requirement did not alter the buffer setback or authorize non-permitted development in this area.

**THE MOTION WAS MADE (GEARHEART/SMITH)** to adopt the Mitigated Negative Declaration, make all the required findings, based on evidence in the staff report, supplemental information, and public testimony, and approve the project as described on the Agenda Item Transmittal subject to the revised conditions of approval with the removal of the requirement for a fence or similar barrier to make the wetland buffer development setback line.

**THE MOTION PASSED BY THE VOTE 5-1 (KELLY VOTED NO)**

- DARRELL CHRISTIE, Eureka Area (1171 Marsh Rd.):** a Parcel Map Subdivision & Coastal Development Permit is need to divide one parcel into one agriculture parcel (used for grazing) and one residential parcel. The project includes an exception to the lot frontage and access road width requirements of the subdivision regulations. NOTE: It is recommended a Mitigated Negative Declaration be adopted. **CASE Nos. PMS-04-29 & CDP-04-77: File No. APN 014-271-06. (AH)**

*Issues: Access*

*Staff report and recommendations:*

**Alyson Hunter** gave a brief staff report giving the history of the property. She introduced a letter from Kelly-O'Hern Associates describing the existing 20-foot access to the agriculture parcel portion of the project. **Commissioner Hansis** asked if the agriculture parcel was restricted to grazing. **Ms. Hunter** confirmed crops could conceivably be grown and the house is on parcel 1.

*The public comment period was opened.*

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## AGENDA ITEM TRANSMITTAL

TO Humboldt County Planning Commission

FROM Kirk Girard, Director of Community Development Services

MEETING DATE: August 17, 2006	AGENDA ITEM: <input checked="" type="checkbox"/> Public Hearing Item <input type="checkbox"/> Consent Agenda Parcel Map Subdivision, Special Permit, Coastal Development Permit	CONTACT: Trevor Estlow
----------------------------------	--	---------------------------

Before you is the following:

**PROJECT DESCRIPTION:** A Parcel Map subdivision to divide an approximately 3.7 acre parcel into three parcels of approximately 15,000 square feet, 15,670 square feet and 2.95 acres. A Coastal Development Permit is required for the subdivision and the subsequent construction of a single family residence with attached garage on Parcels 1 and 3. The residences will be two story (maximum height of 30 feet) and have a maximum size of 2,000 square feet. The attached two car garages will be approximately 440 square feet in size. A Special Permit is required for an exception to the minimum parcel size, a reduction to the wetland buffer area and to allow the two existing sheds to remain on proposed Parcel 1 prior to the establishment of a primary use. The Special Permit will also allow the single family residence proposed for Parcel 1 to be built as a primary residence and designating the existing residence as a second dwelling unit prior to recording the subdivision map. The parcels will be served by the Manila Community Services District.

**PROJECT LOCATION:** The project is located in Humboldt County, in the Manila area, on the west side of Peninsula Drive, approximately 1,200 feet north of the intersection of Peninsula Drive and State Route 255, on the property known as 1501 Peninsula Drive.

**PRESENT PLAN LAND USE DESIGNATION:** Residential Estates (RE), Humboldt Bay Area Plan (HBAP). Density: 0-2 units per acre. Slope Stability: Relatively Stable.

**PRESENT ZONING:** Residential Single Family with a 20,000 square foot minimum parcel size and a combining zone for Manufactured Homes and Beach and Dune Area (RS-20-M/B)

**ASSESSOR PARCEL NUMBER:** 400-151-01

**APPLICANT**

Fennell, Michael & Sharon  
1480 Peninsula Drive  
Manila, CA 95521  
Phone: 442-8228

**OWNER(S)**

same as applicant

**AGENT**

Mike O'Hern  
3240 Moore Avenue  
Eureka, CA 95501  
442-7283

**ENVIRONMENTAL REVIEW:**

Environmental review is required.

**MAJOR ISSUES:**

Wetland buffer

**STATE APPEAL STATUS:**

Project is appealable to the California Coastal Commission

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RESOLUTION OF THE PLANNING COMMISSION  
OF THE COUNTY OF HUMBOLDT  
Resolution Number 06-97

MAKING THE REQUIRED FINDINGS FOR CERTIFYING COMPLIANCE WITH THE CALIFORNIA  
ENVIRONMENTAL QUALITY ACT AND CONDITIONALLY APPROVING THE FENNELL PARCEL MAP  
SUBDIVISION COASTAL DEVELOPMENT AND SPECIAL PERMIT APPLICATION  
CASE NUMBERS: PMS-05-22/CDP-05-47/SP-05-62;  
ASSESSOR PARCEL NUMBER: 400-151-01

WHEREAS, Michael Fennell submitted an application and evidence in support of approving a Coastal Development Permit for the subdivision of a 3.7 acre parcel into three (3) lots of between 15,000 square feet and 2.95 acres and development of two of the parcels with a single family residence, one to be built as a primary residence designating the existing residence a secondary dwelling unit prior to recordation, also included is an exception to the 20,000 square foot minimum parcel size;

WHEREAS, the County Planning Division has reviewed the submitted application and evidence and has referred the application and evidence to involved reviewing agencies for site inspections, comments and recommendations; and

WHEREAS, the project is subject to environmental review pursuant to of the California Environmental Quality Act (CEQA); and

WHEREAS, the County Planning Division prepared a draft Mitigated Negative Declaration, included in Attachment 5, which indicates that the project meets all requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15074 of the Public Resources Code; and

WHEREAS, Attachment 2 in the Planning Division staff report includes evidence in support of making all of the required findings for approving the proposed subdivision;

NOW, THEREFORE, be it resolved, determined, and ordered by the Planning Commission that:

1. The Planning Commission approves the proposed Mitigated Negative Declaration in Attachment 5, as required by Section 15074(b) of the CEQA guidelines, and finds that there is no substantial evidence that the proposed project will have a significant effect on the environment.
2. The Planning Commission makes the findings in Attachment 2 of the Planning Division staff report for Case Numbers PMS-05-22/CDP-05-47/SP-05-62 based on the submitted evidence.
3. The Planning Commission conditionally approves the proposed subdivision as recommended in the Planning Division staff report for Case Number PMS-05-22/CDP-05-47/SP-05-62.

Adopted after review and consideration of all the evidence on August 17, 2006.

The motion was made by COMMISSIONER GEARHEART and seconded by COMMISSIONER SMITH.

AYES: Commissioners: EMAD, GEARHEART, HANSIS, HERMAN & SMITH  
 NOES: Commissioners: KELLY  
 ABSTAIN: Commissioners:  
 ABSENT: Commissioners: MURGUIA

I, Kirk Girard, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above entitled matter by said Commission at a meeting held on the date noted above.

Kirk Girard, Director of Community Development Services

By:   
Betty Webb, Clerk

Last day to appeal the to the Board of Supervisors: August 28, 2006 (file with the Planning Division)

The project is not effective until ALL appeal periods have ended.

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ATTACHMENT 1A  
Revised\* Conditions of Approval for Subdivision  
*\*Revised per Planning Commission Hearing August 17, 2006*

APPROVAL OF THE TENTATIVE MAP IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS WHICH MUST BE SATISFIED BEFORE THE FINAL MAP MAY BE RECORDED:

1. All taxes to which the property is subject shall be paid in full if payable, or secured if not yet payable, to the satisfaction of the County Tax Collector's Office, and all special assessments on the property must be paid or reapportioned to the satisfaction of the affected assessment district. Please contact the Tax Collector's Office approximately three to four weeks prior to filing the parcel or final map to satisfy this condition. This requirement will be administered by the Department of Public Works.
2. The conditions on the enclosed Department of Public Works referral dated May 24, 2005 shall be completed or secured to the satisfaction of that department. Prior to performing any work on the improvements, contact the Land Use Division of the Department of Public Works.
3. The Planning Division requires that two (2) copies of the Final Map be submitted for review and approval. Gross and net lot area shall be shown for each parcel.
4. Water, sewer, and available utilities shall be extended onto each lot to the specifications of the affected agencies providing the facilities and utilities and to the satisfaction of the Department of Public Works. The improvements shall be inspected by the affected agency and a certificate of acceptance of the improvements from the agency shall be filed with the County Public Works Department prior to recordation of the map. Letters from the Manila Community Services District and Pacific Gas and Electric indicating completion of the required work shall satisfy this condition.
5. The applicant shall submit at least three (3) copies of a Development Plan for all parcels to the Planning Division for review and approval. The map shall be drawn to scale and give detailed specifications as to the development and improvement of the site, and shall include items 5(a) through (g) of the Public Works Memorandum dated May 24, 2005, included herein as Exhibit A of Attachment 1, and the following site development details:
  - A. Mapping
    - (1) Topography of the land in 1-foot contour intervals;
    - (2) Proposed access, parking lanes and pedestrian ways;
    - (3) Building envelopes and easements;
    - (4) The location of all drainage improvements and related easements;
    - (5) Four (4) off-street parking spaces on each parcel;
    - (6) The location of Areas of Building Exclusion, where applicable.
    - (7) Wetland Buffer Area for the delineated wetlands labeled "non-buildable". Note: All building site development, including driveways, shall remain outside of mapped wetlands and wetland buffer areas and shall substantially conform to the building site locations as depicted on the Tentative Map.
    - (8)\* ~~Fencing or similar feature along the wetland buffer boundary to protect the identified buffer (See Condition of Approval #10 below).~~

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B. Notes to be Placed on the Development Plan:

- (1) "The project site is not located within an area where known cultural resources have been located. However, as there exists the possibility that undiscovered cultural resources may be encountered during construction activities, the following mitigation measures are required under state and federal law:
- If cultural resources are encountered, all work must cease and a qualified cultural resources specialist contacted to analyze the significance of the find and formulate further mitigation (e.g., project relocation, excavation plan, protective cover).
  - Pursuant to California Health and Safety Code §7050.5, if human remains are encountered, all work must cease and the County Coroner contacted."
- The applicant and successors in interest are ultimately responsible for ensuring compliance with this condition.
- (2) "The project is located in a designated non-attainment area for the state's health-based particulate matter (PM10) air quality standard. As such, additional emission from the project (construction of two single family residences) could exacerbate air quality problems, including non-attainment of ambient air quality standards. In order to address potential effects to air quality the District recommends:
- Prohibition of open fireplaces.
  - Heating should be provided using clean fuels (electricity or natural gas), when feasible.
  - If wood heating must be used, only US Environmental Protection Agency (EPA) certified heating appliances should be permitted in new construction."
- (3) "Parcels 1 through 3 of this subdivision are shown on the Planning Scenario for a Great Earthquake on the CSZ (CDMG, 1995, Map S-1) as being within the zone of potential inundation by a tsunami. The scenario earthquake is assumed to generate a local tsunami that will arrive just minutes after the earthquake occurs. On the Samoa Peninsula, strong shaking should be taken as a warning of a potential tsunami, and individuals should immediately move to higher ground. A possible refuge might be afforded by the 1.5 mile long by 300 foot wide ridge of wooded dunes located just west of the subject parcel, approximately 2 miles north of Samoa. Owners and occupants of residential development on these parcels are encouraged to become familiar with, and participate in, activities and planning efforts for evacuation to a "safe zone" in the event of a tsunami. Please contact the County Office of Emergency Services for more information."
- (4) "All new development within the wetland buffer shall require the issuance of a Special Permit and include the following mitigation measures:
- (a) Not more than 25% of the lot surface shall be effectively impervious
  - (b) The release rate of storm runoff to adjacent wetlands shall not exceed the natural rate of storm runoff for a 50 year storm of 10 minute duration.
  - (c) Storm water outfalls, culverts, gutters, and the like shall be dissipated.
  - (d) Septic systems or alternative waste disposal systems must meet standards of the Humboldt County Division of Environmental Health and the Regional Water Quality Control Board.

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- (e) Areas disturbed during construction, grading, etc., within 100 feet of the mean high water line, shall be restored to original contours and sufficiently and promptly replanted with vegetation naturally occurring in the immediate area.
- (f) Development and construction shall minimize cut and fill operations and erosion and sedimentation potentials through construction of temporary and permanent sediment basins, seeding or planting bare soil, diversion of runoff away from graded areas and areas heavily used during construction, and, when feasible, avoidance of grading during the rainy season (November through April)."
- (5) "The lots in this subdivision were created using a Lot Size Modification."
- (6) Prior to Parcel Map recordation for Parcel 2, and prior to building permit issuance on parcels 1 and 3, the applicant/owner shall install a fence or similar feature along the wetland buffer boundary to protect the identified buffer. Fencing materials should avoid the use of concrete, which will adversely affect soil chemistry of the wetland area. Furthermore, a fence should only consist of non-treated wood or other chemical-free material to avoid impacts to wetland areas. This barrier shall be maintained for the life of the development by the owners of the affected parcels."
- (7) "Please note that the information and requirements described and/or depicted on this Development Plan are current at the time of preparation but may be superseded or modified by changes to the laws and regulations governing development activities. Before commencing a development project, please contact the Planning Division to verify if any standards or requirements have changed."
6. The applicant shall cause to be recorded a "Notice of Development Plan" for all parcels on forms provided by the Humboldt County Planning Division. Document review fees as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$146.00 plus applicable recordation fees) will be required. The Development Plan shall also be noticed on the Parcel Map.
7. A map revision fee as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$77 per parcel) as required by the County Assessor's Office shall be paid to the County Community Development Services Department, 3015 H Street, Eureka. The check shall be made payable to the " Humboldt County Planning Division ". The fee is required to cover the Assessor's cost in updating the parcel boundaries.
8. A review fee for Conformance with Conditions as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$95.00) shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka. This fee is a deposit, and if actual review costs exceed this amount, additional fees will be billed at the County's current burdened hourly rate. Please see Informational Note 1 below for suggestions to minimize the cost for this review.
9. This parcel, as well as all others in the Manila area, is shown on the Planning Scenario for a Great Earthquake on the Cascadia Subduction Zone (CSZ, CDMG, 1995, Map S-1) as being within the zone of potential inundation by a tsunami. As part of the project proposal, the applicant is voluntarily contributing to the Tsunami Ready Program Fund for the Manila area. Evidence of applicant's contribution to the Tsunami Ready Fund administered by the County Office of Emergency Services (OES) and the National Weather Service shall be provided prior to recordation of the Parcel Map. Use of the funds shall include but not be limited to installation of an active warning system (i.e., warning sirens) or for other Tsunami Ready activities such as tsunami education, identification of evacuation routes, and signage.

14074



## ATTACHMENT 1 B

## Conditions of Approval for Blanket Coastal Development and Special Permit

APPROVAL OF THE "BLANKET" COASTAL DEVELOPMENT AND SPECIAL PERMIT IS  
CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS:

1. All exterior lighting shall be shielded such that it is not directed off of the parcel or into the wetland area.
2. Connection to Manila Community Services District water and sewer service shall be required before the building permit final is issued.
3. All development pursued under this coastal development permit is subject to the environmental impact mitigation measures included in the Mitigated Negative Declaration.
4. All development pursued under this coastal development permit is subject to the following restrictions:
  - building heights shall not exceed **30 feet**,
  - gross floor area of house (exclusive of garage and detached appurtenant structures) shall not exceed 2,000 square feet,
  - building sites shall be in conformance with zoning setbacks and lot coverage restrictions,
  - parking shall be provided in accordance with that specified in the zoning regulations.
5. Prior to any ground disturbing activities, a cultural monitor shall be retained to observe all earthwork to the satisfaction of the Wiyot Tribe. This monitor shall be present during any new excavation and shall remain on site until no additional excavation activities are required or to the satisfaction of the Wiyot Tribe.
6. The following recommendations included in the Wetland Delineation performed by Mad River Biologists dated December 2005 shall be implemented:
  - a. Position all high use areas such as walkways, points of entry, parking areas, and decking as far away as possible from the wetland, and/or establishing fencing between residential areas and wetland areas to limit access and potential anthropogenic disturbances.
  - b. Minimizing the amount of impervious substrate by constructing driveways, walkways and parking areas within or adjacent to buffer areas out of a porous paving material or gravel, and/or directing runoff away from the wetland to an on-site stormwater detention basin.
  - c. Limiting vegetation removal in upland areas and re-planting construction areas immediately upon completion of the project to avoid erosion and maintain a vegetative buffer between developed areas and the adjacent wetland.
7. The property owner shall execute and file with the Planning Division the statement titled "*Notice and Acknowledgment of Tsunami Hazard*". Contact the Planning Division for a copy of the required form.

*(To apply if second residence is to be constructed prior to recordation of parcel map)*

8. The applicant shall conform with the requirements of Humboldt County Code Section 313-87.1.3.7 regarding issuance of permits within any two (2) year period.
9. Applicant shall comply with the provisions, development and design standards of §313-87.1, Second Residential Unit (HCC) for the life of the project.

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10. Both the primary residence and the second dwelling unit shall remain under the same ownership; the second dwelling unit shall not constitute a subdivision of the parcel.
11. This permit is restricted to a single residence in addition to the existing manufactured home on the subject parcel (APN 400-151-01).

Informational Notes:

1. The Coastal Development Permit for construction of one single family residence on Parcel 1 and Parcel 3 (floor area maximum of 2,000 sq. ft.), or a second dwelling on APN 400-151-01, shall expire and become null and void at the expiration of two (2) years after all appeal periods have lapsed (see "Effective Date"); except where construction under a valid building permit or use in reliance on the permit has commenced prior to such anniversary date. The period within which construction or use must be commenced may be extended as provided by Section 312-11.3 of the Humboldt County Code.
2. Release of the building permit on Parcel 3 shall be subject to prior recordation of the Parcel Map for Case No. PMS-05-22.

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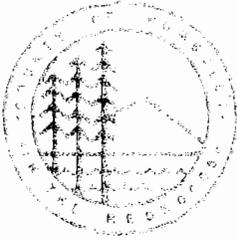


EXHIBIT A

DEPARTMENT OF PUBLIC WORKS

COUNTY OF HUMBOLDT

MAILING ADDRESS: 1106 SECOND STREET, EUREKA, CA 95501-0579  
AREA CODE 707/FAX 445-7409

ARCATA-EUREKA AIRPORT TERMINAL  
MCKINLEYVILLE

AVIATION 839-5401

PUBLIC WORKS BUILDING  
SECOND & L ST., EUREKA

ADMINISTRATION	445-7491	NATURAL RESOURCES	445-7741
BUSINESS	445-7652	PARKS	445-7851
ENGINEERING	445-7377	ROADS & EQUIPMENT MAINT.	445-7421
	ARCHITECT	445-7493	

CLARK COMPLEX  
HARRIS & H ST., EUREKA

LAND USE 445-7206

TO: Trevor Estlow, Planner II

FROM: Robert W. Bronkall, Associate Engineer *RT*

RE: SUBDIVISION REQUIREMENTS - IN THE MATTER OF THE  
APPLICATION OF MICHAEL FENNEL, APN 400-151-01, PMS-05-22 FOR  
APPROVAL OF A TENTATIVE MAP, CONSISTING OF ~3.7 ACRES INTO  
3 LOTS

DATE: 4/25/06

*The following requirements and standards are applicable to this project and must be completed to the specifications and satisfaction of the Department of Public Works (Department) before the subdivision map may be filed with the County Recorder. If there has been a substantial change in the project since the last date shown above, an amended report must be obtained and used in lieu of this report. Prior to commencing the improvements indicated below, please contact the Subdivision Inspector at 445-7205 to schedule a pre-construction conference.*

These recommendations are based on the tentative map prepared by Kelly-O'Hern Associates dated Jan. 12, 2006.

**NOTE:** All correspondence (letters, memos, faxes, construction drawings, reports, studies, etc.) with this Department must include the Assessor Parcel Number (APN) shown above.

**READ THE ENTIRE REPORT BEFORE COMMENCING WORK ON THE PROJECT**

**1. MAPPING**

(a) Applicant must cause to be filed a parcel map (subdivision map) showing monumentation of all property corners to the satisfaction of this Department in compliance with Section 326-15 of the Humboldt County Code. Subdivision map checking fees shall be paid in full at the time the subdivision map is submitted for checking. County Recorder fees shall be paid prior to submittal of the map to the County Recorder for filing. The subdivision map must be prepared by a Land Surveyor licensed by the State of California -or- by a Civil Engineer registered by the State of California who is authorized to practice land surveying.

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All Department charges associated with this project must be paid in full prior to the subdivision map being submitted to the County Recorder for filing.

(b) DEPOSIT: Applicant shall be required to place a security deposit with this Department for inspection and administration fees as per Section 326-13, Improvement Review and Inspection Fees, of the Humboldt County Code prior to review of the construction plan, review of the subdivision map, or the construction of improvements, whichever occurs first.

(c) EASEMENTS: All easements that encumber or are appurtenant to the subdivision shall be shown graphically on the subdivision map. Those easements that do not have a metes and bounds description shall be noted on the subdivision map and shown as to their approximate location.

(d) At least some of the parcels may be further divided; therefore, the applicant shall conform to Humboldt County Code Section 323-6(a)(5), Statements to Accompany a Tentative Subdivision Map. This condition may be removed if the Community Development Services Department determines in writing that no further subdivision development of the parcels is possible.

(e) DEDICATIONS: The following shall be dedicated on the subdivision map, or other document as approved by this Department:

(1) Applicant shall dedicate to the County of Humboldt a 10 foot public utility easement and overlapping 10 foot wide pedestrian easement along the frontage of the subdivision in a manner approved by this Department. The purpose of the easement is for use by Public Utility Districts, Public Utility Companies, and for public pedestrian facilities.

## 2. IMPROVEMENTS

(a) CONSTRUCTION PLANS: Construction plans shall be submitted for any required road, drainage, landscaping, and pedestrian improvements. Construction plans must be prepared by a Civil Engineer registered by the State of California. Construction of the improvements shall not commence until authorized by this Department.

The construction plans shall show the location of all proposed new utilities and any existing utilities within 10 feet of the improvements. The plans shall be signed as approved by the local fire response agency and public utility companies having any facilities within the subdivision prior to construction authorization by this Department.

Construction plans shall be tied into elevation datum approved by this Department.

(b) Construction of improvements for this project will not be allowed to occur between October 15 and April 15 without permission of this Department.

(c) Applicant shall be required to widen Peninsula Drive along the frontage of the subdivision to allow for a minimum 12 foot driving lane and 8 foot parking lane. The outside edge of the parking lane shall be located 5 feet easterly and parallel with the subdivision property line fronting Peninsula Drive. The widening shall be transitioned back to the existing road section at each end of the project in a manner approved by this Department

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The proposed improvements may require the undergrounding or relocation of existing facilities at the expense of the applicant. Undergrounding of existing facilities, relocation of existing facilities, or construction of new facilities shall be completed prior to constructing the structural section for the roadway.

At a minimum, the structural section of the road improvements shall include 0.2 foot of Caltrans Type B asphalt concrete (AC) over 0.5 foot of Caltrans Class 2 aggregate base. If required by this Department, the structural sections of all roads shall be determined by Caltrans R-Value method using a Traffic Index (T.I.) approved by this Department.

When widening asphalt concrete (AC) roads, the widened road shall be paved with AC. A sawcut is typically required to ensure a uniform joint between the existing and new pavements. The location of the sawcut shall be approved by this Department based upon the condition of the existing road surface.

(d) Nothing is intended to prevent the applicant from constructing the improvements to a greater standard.

(e) Nothing is intended to prevent this Department from approving alternate typical sections, structural sections, drainage systems, and road geometrics based upon sound engineering principals as contained in, but not limited to, the Humboldt County Road Design Manual, Caltrans Highway Design Manual, Caltrans Local Programs Manual, Caltrans Traffic Control Manual, Manual on Uniform Traffic Control Devices, and AASHTO's A Policy of Geometric Design of Highways and Streets (AKA "The Green Book"). Engineering must not be in conflict with Humboldt County Code or County adopted guidelines and policies.

(f) DRIVEWAYS: Any new accesses from the County road will require encroachment permits from this Department. The location of existing and proposed driveway aprons (access openings) shall be shown on the construction plans. The proposed accesses will be evaluated after application is received.

All access openings shall conform to Humboldt County Code Section 341 regarding visibility.

Any existing accesses that do not conform shall be paved with asphalt concrete for the width of the driveway and a distance of 25 feet from the edge of the County road prior to filing of the map.

(g) UTILITIES: If any utilities are required to be installed as a condition of tentative map approval by the Community Development Services Department - Planning Division, the utility work shall be completed prior to constructing the structural section for the road. All laterals shall be extended onto each lot and marked in a manner that they will be easily located at the time of individual hookups. A letter of completion of all work from each involved utility company shall be submitted prior to constructing the roadway structural section. Any utilities that need to be relocated shall be done solely at applicant's expense.

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### 3. DRAINAGE

Applicant shall be responsible to correct any involved drainage problems to the satisfaction of this Department.

### 4. GRADING

Applicant shall submit an engineered grading plan to this Department for approval addressing the entire project construction areas. No grading within the subdivision or any off-site rights of way shall occur prior to approval of the plan by this Department.

The criteria for the grading plan is that the buildable portion of each parcel shall drain to the wetland area, to the west, within each parcel without crossing an adjacent parcel's buildable area.

An erosion control plan (aka, sediment control plan, Storm Water Pollution Plan, etc.) addressing erosion from storm water runoff and wind shall accompany the grading plan.

For construction sites larger than 1 acre, a Notice of Intent (NOI) may be required to be filed with the California Regional Water Quality Control Board. A copy of the NOI, if submitted, shall be provided to this Department prior to the start of construction.

### 5. DEVELOPMENT PLAN

(a) The development plan shall be legibly drawn to a convenient scale on 24"x36" mylar, in black ink, unless approved otherwise by this Department.

(b) The development plan shall include all encumbrances of record as shown on a current title report as well as those created on the subdivision map.

(c) The development plan shall include the following to the satisfaction of this Department:

- When roads or drainage facilities are not to be maintained by the County, then clearly state next to the facility "NOT COUNTY MAINTAINED".
- When minimum finished floor elevations must be adhered to, the plan shall state the minimum elevation and the referenced benchmark.
- Reference the soils report prepared for the project; including a statement substantially similar to: "See soils report prepared by \_\_\_\_\_, Project No. \_\_\_\_\_, dated \_\_\_\_\_, for recommendations, inspections, and special requirements required for development of this subdivision."
- When improvement plans have been prepared in conjunction with proposed subdivision, include a statement substantially similar to: "Improvement plans for roads, driveways, and drainage, etc. are on file with the Department of Public Works".
- Building setbacks to allow for the ultimate development of parcels that could be further subdivided.

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(d) The development plan shall include a statement signed by the Surveyor (or Civil Engineer) who signed the subdivision map. The statement shall be substantially similar to the following: "All encumbrances of record as of the date of the referenced title report are correctly shown on this plan; that all encumbrances created on the filed subdivision map are correctly shown on this plan; that approximate distances from existing fence corners to the actual property corners, if not the same, are shown on this plan. Title report prepared by \_\_\_\_\_, Order No. \_\_\_\_\_, dated \_\_\_\_\_."

(e) Applicant shall cause a "Notice of Development Plan" to be recorded in the Office of the County Recorder.

(f) The development plan shall be signed off by this Department prior to official filing with the Planning Division. The plan shall include a signoff block for this Department to sign substantially similar to:

Reviewed by: \_\_\_\_\_ Date \_\_\_\_\_  
Department of Public Works

(g) Typical precise grading/lot drainage details for the lots shall be shown.

// END //

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PLANNING DIVISION  
COMMUNITY DEVELOPMENT SERVICES

**COUNTY OF HUMBOLDT**

3015 H STREET

EUREKA, CALIF. 95501-4484 PHONE (707) 445-7541

DATE: August 10, 2006  
TO: Humboldt County Planning Commission  
FROM: Kirk Girard, Director of Community Development Services  
SUBJECT: **Fennell** Parcel Map Subdivision, Coastal Development Permit, and Special Permit  
**PMS-05-22/CDP-05-47/SP-05-62**  
**APN 400-151-01** Manila Area

RECEIVED

AUG 14 2006

CALIFORNIA  
COASTAL COMMISSION

The attached staff report was prepared for your consideration of the Fennell Parcel Map Subdivision, Coastal Development and Special Permit application at the public hearing August 17, 2006. The staff report includes the following:

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Agenda Item Transmittal Form	2
Recommended Commission Action and Executive Summary	3
Maps	
Vicinity Map	5
Zoning Map	6
Assessor Parcel Map	7
Project Proposal Map	insert (cont)
Draft Planning Commission Resolution	8
Attachments	
Attachment 1: A - Recommended Conditions of Approval for Subdivision	9
B - Recommended Conditions of Approval for Coastal Development Permit	13
Exhibit "A" - Public Works Dept. Conditions	20
Attachment 2: Staff Analysis of Required Findings	29
Attachment 3: Applicant's Evidence Supporting the Findings	39
Attachment 4: Referral Agency Comments	41
Attachment 5: Draft Mitigated Negative Declaration	43

Please contact Trevor Estlow at 268-3740 if you have any questions about the scheduled public hearing item.

cc: Applicant, Owners, Manila CSD

23074

**AGENDA ITEM TRANSMITTAL**

TO: Humboldt County Planning Commission

FROM: Kirk Girard, Director of Community Development Services

<b>MEETING DATE:</b> August 17, 2006	<b>AGENDA ITEM:</b> <input checked="" type="checkbox"/> Public Hearing Item <input type="checkbox"/> Consent Agenda Parcel Map Subdivision, Special Permit, Coastal Development Permit	<b>CONTACT:</b> Trevor Estlow
---	---	----------------------------------

Before you is the following:

**PROJECT DESCRIPTION:** A Parcel Map subdivision to divide an approximately 3.7 acre parcel into three parcels of approximately 15,000 square feet, 15,670 square feet and 2.95 acres. A Coastal Development Permit is required for the subdivision and the subsequent construction of a single family residence with attached garage on Parcels 1 and 3. The residences will be two story (maximum height of 30 feet) and have a maximum size of 2,000 square feet. The attached two car garages will be approximately 440 square feet in size. A Special Permit is required for an exception to the minimum parcel size, a reduction to the wetland buffer area and to allow the two existing sheds to remain on proposed Parcel 1 prior to the establishment of a primary use. The Special Permit will also allow the single family residence proposed for Parcel 1 to be built as a primary residence and designating the existing residence as a second dwelling unit prior to recording the subdivision map. The parcels will be served by the Manila Community Services District.

**PROJECT LOCATION:** The project is located in Humboldt County, in the Manila area, on the west side of Peninsula Drive, approximately 1,200 feet north of the intersection of Peninsula Drive and State Route 255, on the property known as 1501 Peninsula Drive.

**PRESENT PLAN LAND USE DESIGNATION:** Residential Estates (RE), Humboldt Bay Area Plan (HBAP). Density: 0-2 units per acre. Slope Stability: Relatively Stable.

**PRESENT ZONING:** Residential Single Family with a 20,000 square foot minimum parcel size and a combining zone for Manufactured Homes and Beach and Dune Area (RS-20-M/B)

**ASSESSOR PARCEL NUMBER:** 400-151-01

**APPLICANT**

Fennell, Michael & Sharon  
 1480 Peninsula Drive  
 Manila, CA 95521  
 Phone: 442-8228

**OWNER(S)**

same as applicant

**AGENT**

Mike O'Hern  
 3240 Moore Avenue  
 Eureka, CA 95501  
 442-7283

**ENVIRONMENTAL REVIEW:**

Environmental review is required.

**MAJOR ISSUES:**

Wetland buffer

**STATE APPEAL STATUS:**

Project is appealable to the California Coastal Commission.

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**FENNELL PARCEL MAP SUBDIVISION, COASTAL DEVELOPMENT AND SPECIAL PERMIT**

Case Number PMS-05-22/CDP-05-47/SP-05-62

**RECOMMENDED COMMISSION ACTION:**

1. Describe the application as a public hearing;
2. Allow the staff to present the project;
3. Open the public hearing; and
4. After receiving testimony, close the hearing and make a motion to:

*"I move to adopt the Mitigated Negative Declaration and make all of the required findings, based on evidence in the staff report and public testimony, and to approve the project as described in the Agenda Item Transmittal, subject to the recommended conditions of approval.*

**EXECUTIVE SUMMARY**

The applicant is proposing approval of a Coastal Development Permit, Special Permit, and Minor Subdivision of a 3.7 acre parcel planned and zoned for single family residential use into three parcels of approximately 15,000 square feet, 15,670 square feet and 2.95 acres, with all parcels to be served by community water and sewer. The 2.95 acre parcel will allow the entire wetland identified on the parcel to be retained under one ownership. A Special Permit is requested for an exception to the minimum parcel size due to the constraints of the configuration of the parent parcel and the occurrence of wetlands and coastal pine forest over a majority of the parcel. The Special Permit will also allow a minor reduction to the standard 100 foot wetland buffer setback required in the Humboldt Bay Area Plan (HBAP). The buffer will be reduced by 10 feet on proposed Parcel 3 to allow the construction of the residence and garage. Furthermore, the Special Permit will allow the construction of a primary residence and designating the existing residence a secondary dwelling unit. This will allow the applicant to begin construction of the residence prior to the recordation of the Parcel Map. In addition, if for any reason the applicant fails to record the Map, the parcel would then be developed with a primary and secondary dwelling unit and could remain as legally permitted. The Special Permit will also allow the two existing storage sheds to remain on proposed Parcel 1 prior to the establishment of a primary use (single family residence). The Coastal Development Permit includes the subdivision and construction of the primary residence and attached two-car garage on proposed Parcel 1 and a single family residence with attached two-car garage on proposed Parcel 3 after recordation of the Parcel Map. The residences will be two story with a maximum height of 30 feet and have a maximum size of 2,000 square feet. The attached two car garages will be approximately 440 square feet in size. The blanket Coastal Development Permit shall be effective for two years.

The surrounding area consists mostly of larger residential parcels developed with single family residences that are constrained by natural resources. The lands to the west are mostly planned for Natural Resource and open space. No cultural resources are known to exist on the site, however, the site is in close proximity to a known archaeological site. Therefore, as recommended by the Wiyot Tribe, a cultural monitor will be present during any groundbreaking activity during construction of the residences. This has been made a condition of approval. Access to the site is from County-maintained Peninsula Drive. The access road design has been reviewed and approved by the Humboldt County Public Works Department.

This parcel, as well as all others on the Samoa Peninsula, is shown on the Planning Scenario for a Great Earthquake on the Cascadia Subduction Zone (CSZ, CDMG, 1995, Map S-1) as being within the zone of potential inundation by a tsunami. The scenario earthquake is assumed to generate a local tsunami that will arrive just minutes after the earthquake occurs. Strong shaking should be taken as a warning of a potential tsunami, and individuals should immediately move to higher ground. Much of Manila lies east of a 1.5 mile long by 300 foot wide ridge of wooded dunes which may afford refuge from a potential tsunami; however, the degree of protection for individual properties is unknown and direct and indirect effects of tsunami run-up (e.g., flooding, wave and debris impacts, and access disruption) could result in significant adverse impacts to persons and property. Studies prepared for the Samoa Town Master Plan EIR show

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that relative risk is greatest for lands at or below the 30 foot elevation above mean sea level (msl). To mitigate for these impacts, the National Weather Service and the County Office of Emergency Services (OES) are working to establish an active warning system and evacuation plans for tsunami hazard areas, including Manila. As part of the project proposal, the applicant is voluntarily contributing to the Tsunami Ready Program Fund administered through OES. Based on the applicant's proposal, the Department is able to find that the project has a less than significant impact with respect to hazards and hydrology impacts as discussed in the attached draft Mitigated Negative Declaration.

No alteration of the overall drainage pattern is proposed and runoff water from the project can be adequately accommodated by existing site conditions. Currently, the slope of the parcel is such that drainage flows to the west towards the wetland areas. This shall not change. As part of the reduced setback request, development within the reduced setback has been conditioned to minimize impervious surfaces and direct runoff away from the wetland so that it is dissipated and does not enter the wetland in a concentrated manner. The applicant shall be responsible to correct any involved drainage problems to the satisfaction of the Department of Public Works as this has been made a condition of approval.

The draft Mitigated Negative Declaration in Attachment 5 documents that the proposed development will not have a significant impact on the environment.

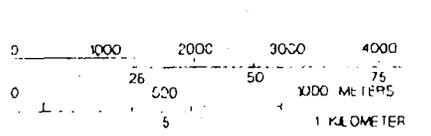
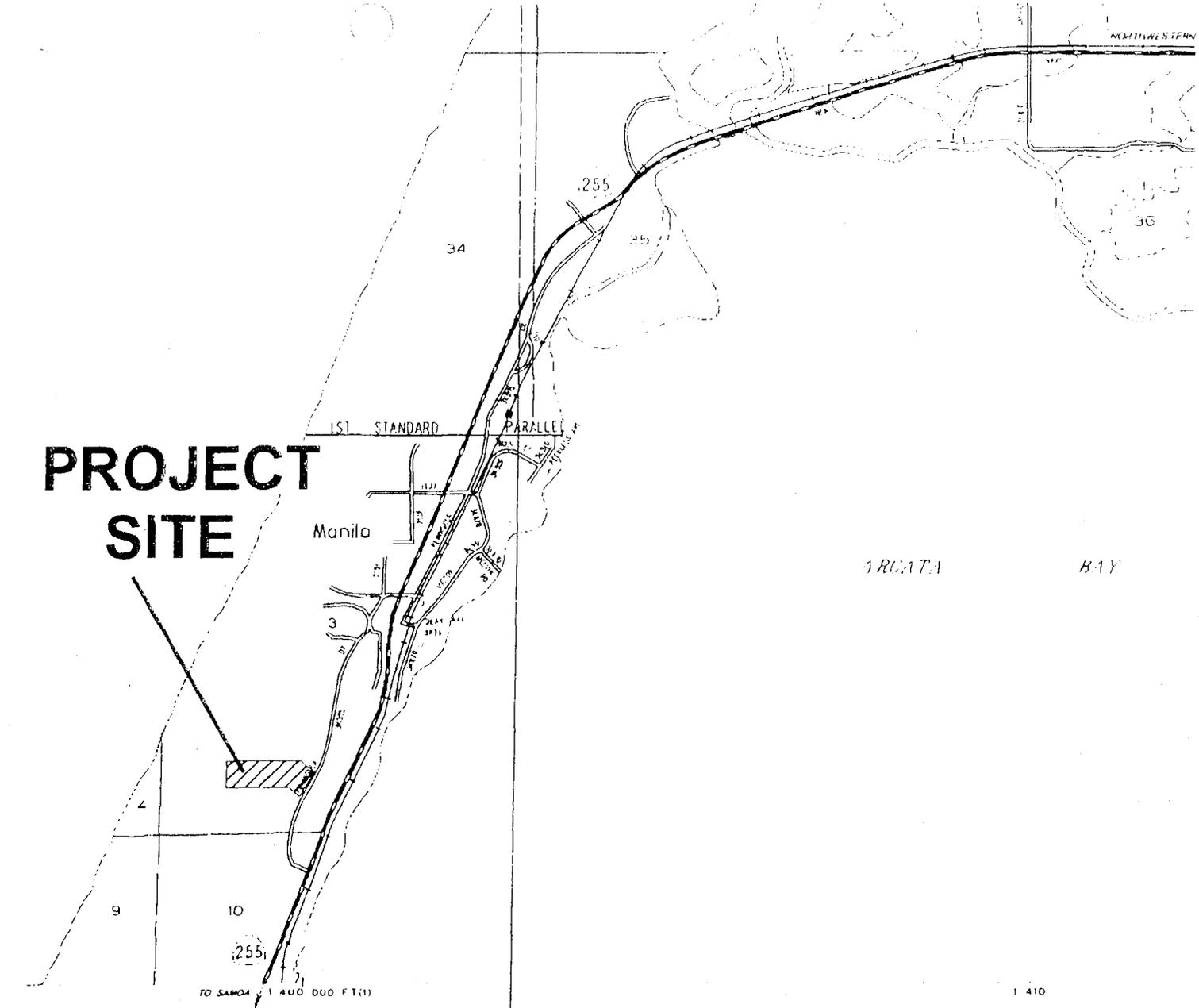
Based on the on-site inspection, a review of Planning Division reference sources, and comments from all involved referral agencies, planning staff believes that the applicant has submitted evidence in support of making all of the required findings for approving the proposed subdivision.

**ALTERNATIVES:**

The Planning Commission could deny the proposed subdivision if the Commission finds that the submitted evidence does not support making all of the required findings. However, based on this staff report, planning staff believes the submitted evidence does support making all of the required findings and does not recommend further consideration of this alternative.

26974

# PROJECT SITE



COUNTY NAME	HUM
FUNC. CLASS	4-73
URBAN AREA	1770
CITY LIMIT	2-3-74
COUNTY MAP	3-4-73

- STATE BOUNDARY
- COUNTY BOUNDARY
- CITY BOUNDARY
- PARK OR RESERVATION BOUNDARY
- RANCHO BOUNDARY
- URBAN AREA BOUNDARY
- STATE HIGHWAY-ADOPTED
- PROPOSED ROAD
- BRIDGE - GRADE SEPARATION
- TUNNEL

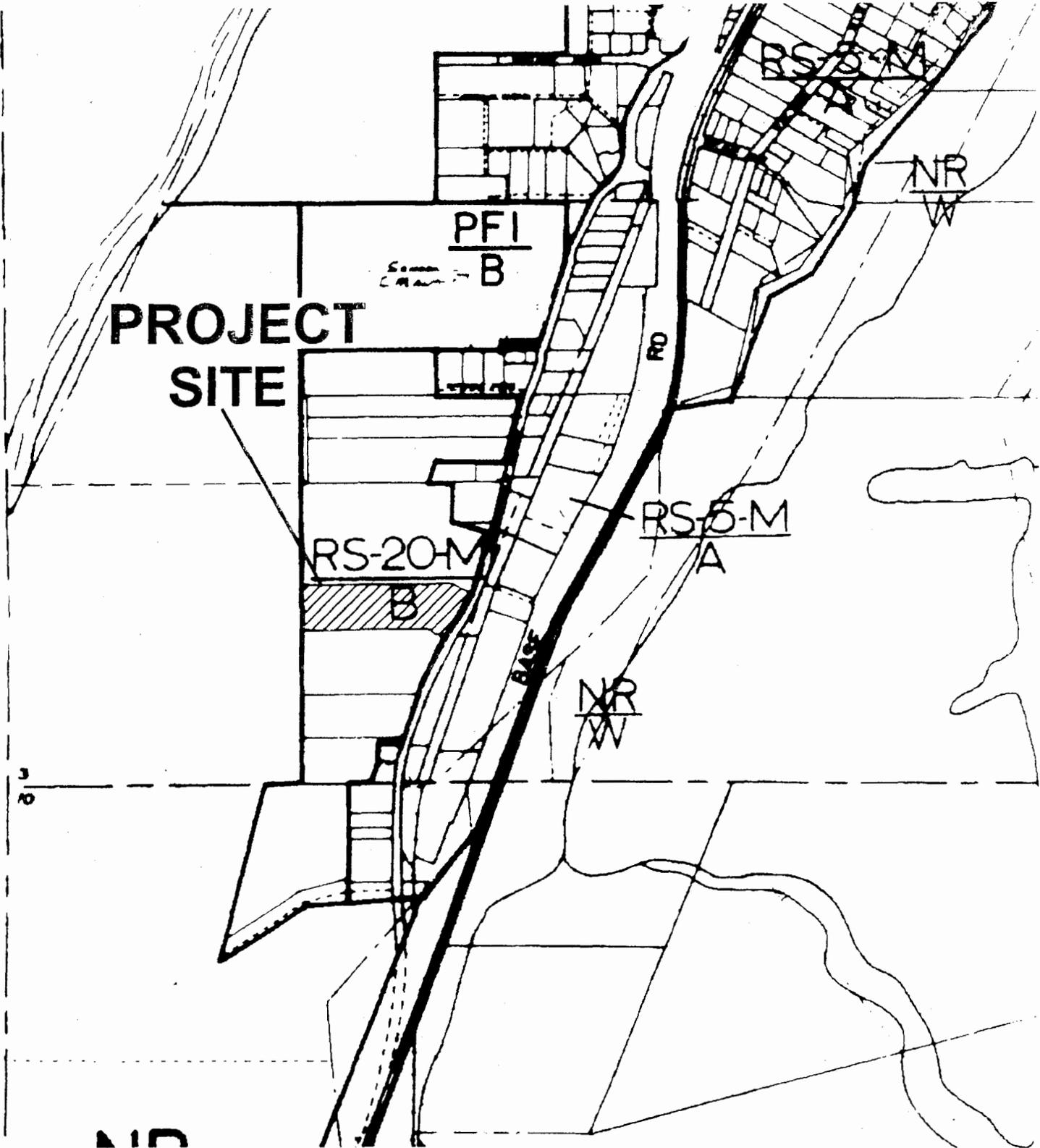
- SIGN ROUTES
- 5 INTERSTATE
  - 50 US
  - 49 STATE
  - 38 COUNTY
  - 149 STATE HIGHWAY
- INTERSTATE FREEWAY AND EXI  
OTHER  
MINOR  
C

B C D E F G

**PROPOSED FENNEL PARCEL MAP SUBDIVISION,  
COASTAL DEVELOPMENT & SPECIAL PERMITS  
MANILA AREA PMS-05-22/CDP-05-47/SP-05-62  
APN: 400-151-01  
SECTION 3 T5N R1W H. B. & M.**

**LOCATION MAP 27974**





**PROPOSED FENNEL PARCEL MAP SUBDIVISION,  
 COASTAL DEVELOPMENT & SPECIAL PERMITS  
 MANILA AREA PMS-05-22/CDP-05-47/SP-05-62**

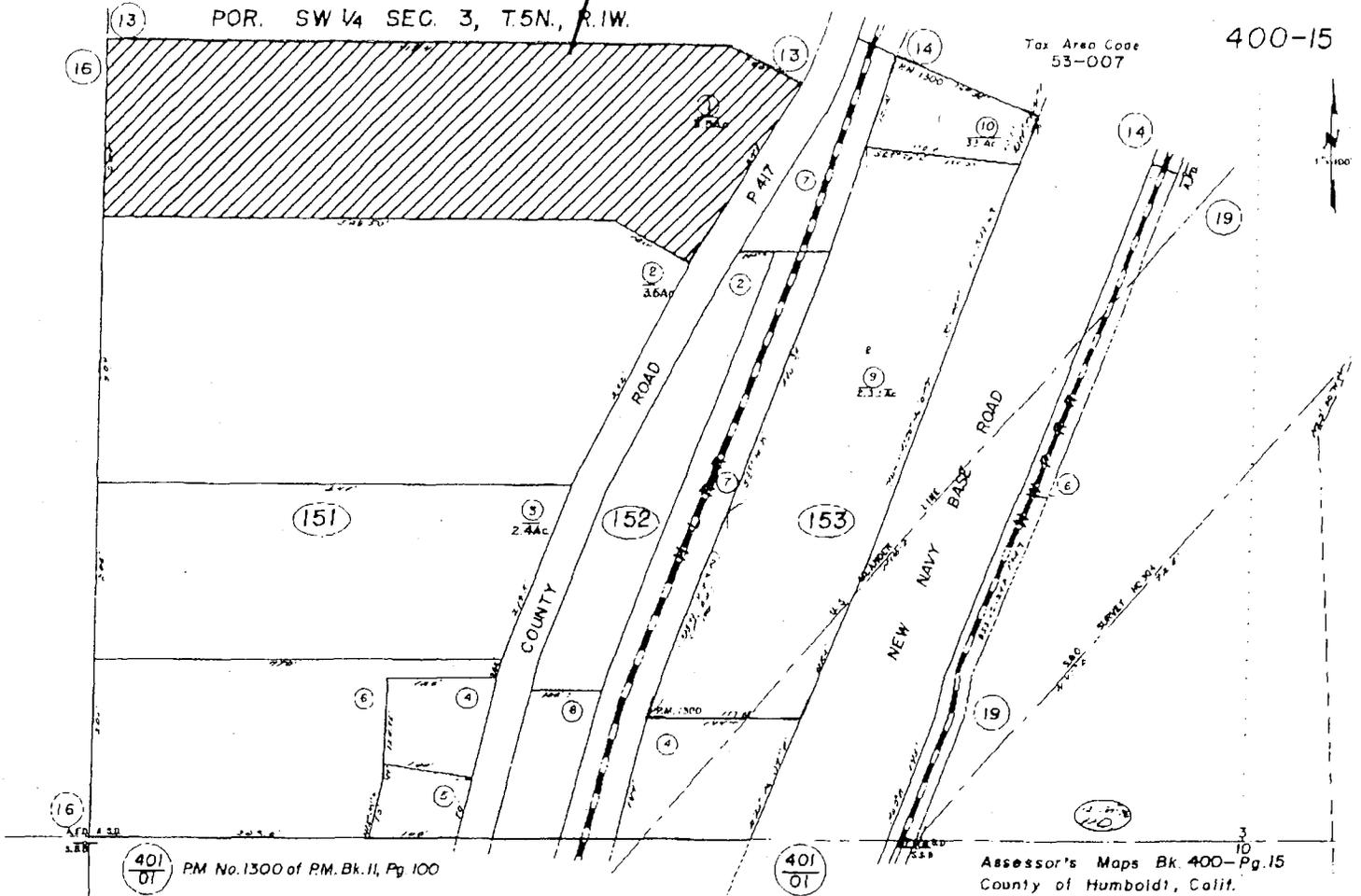
**APN: 400-151-01**

**SECTION 3 T5N R1W H. B. & M.**

**ZONING MAP 28 of 74**



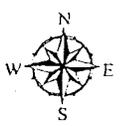
# PROJECT SITE



NOTE - Assessor's Block Numbers Shown in Ellipses  
Assessor's Parcel Numbers Shown in Circles

**PROPOSED FENNEL PARCEL MAP SUBDIVISION,  
COASTAL DEVELOPMENT & SPECIAL PERMITS  
MANILA AREA PMS-05-22/CDP-05-47/SP-05-62  
APN: 400-151-01  
SECTION 3 T5N R1W H. B. & M.**

**ASSESSOR PARCEL MAP 29074**



RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF HUMBOLDT Resolution Number 06-

MAKING THE REQUIRED FINDINGS FOR CERTIFYING COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND CONDITIONALLY APPROVING THE FENNELL PARCEL MAP SUBDIVISION COASTAL DEVELOPMENT AND SPECIAL PERMIT APPLICATION CASE NUMBERS: PMS-05-22/CDP-05-47/SP-05-62; ASSESSOR PARCEL NUMBER: 400-151-01

WHEREAS, Michael Fennell submitted an application and evidence in support of approving a Coastal Development Permit for the subdivision of a 3.7 acre parcel into three (3) lots of between 15,000 square feet and 2.95 acres and development of two of the parcels with a single family residence, one to be built as a primary residence designating the existing residence a secondary dwelling unit prior to recordation, also included is an exception to the 20,000 square foot minimum parcel size;

WHEREAS, the County Planning Division has reviewed the submitted application and evidence and has referred the application and evidence to involved reviewing agencies for site inspections, comments and recommendations; and

WHEREAS, the project is subject to environmental review pursuant to of the California Environmental Quality Act (CEQA); and

WHEREAS, the County Planning Division prepared a draft Mitigated Negative Declaration, included in Attachment 5, which indicates that the project meets all requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15074 of the Public Resources Code; and

WHEREAS, Attachment 2 in the Planning Division staff report includes evidence in support of making all of the required findings for approving the proposed subdivision;

NOW, THEREFORE, be it resolved, determined, and ordered by the Planning Commission that:

- 1. The Planning Commission approves the proposed Mitigated Negative Declaration in Attachment 5, as required by Section 15074(b) of the CEQA guidelines, and finds that there is no substantial evidence that the proposed project will have a significant effect on the environment.
2. The Planning Commission makes the findings in Attachment 2 of the Planning Division staff report for Case Numbers PMS-05-22/CDP-05-47/SP-05-62 based on the submitted evidence.
3. The Planning Commission conditionally approves the proposed subdivision as recommended in the Planning Division staff report for Case Number PMS-05-22/CDP-05-47/SP-05-62.

Adopted after review and consideration of all the evidence on August 17, 2006.

The motion was made by COMMISSIONER and seconded by COMMISSIONER.

AYES: Commissioners:
NOES: Commissioners:
ABSTAIN: Commissioners:
ABSENT: Commissioners:

I, Kirk Girard, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above entitled matter by said Commission at a meeting held on the date noted above.

Kirk Girard, Director of Community Development Services

By: Betty Webb, Clerk

Last day to appeal the to the Board of Supervisors: (file with the Planning Division)

The project is not effective until ALL appeal periods have ended.

Handwritten number 30974

**ATTACHMENT 1A**  
**Conditions of Approval for Subdivision**

APPROVAL OF THE TENTATIVE MAP IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS WHICH MUST BE SATISFIED BEFORE THE FINAL MAP MAY BE RECORDED:

1. All taxes to which the property is subject shall be paid in full if payable, or secured if not yet payable, to the satisfaction of the County Tax Collector's Office, and all special assessments on the property must be paid or reapportioned to the satisfaction of the affected assessment district. Please contact the Tax Collector's Office approximately three to four weeks prior to filing the parcel or final map to satisfy this condition. This requirement will be administered by the Department of Public Works.
2. The conditions on the enclosed Department of Public Works referral dated May 24, 2005 shall be completed or secured to the satisfaction of that department. Prior to performing any work on the improvements, contact the Land Use Division of the Department of Public Works.
3. The Planning Division requires that two (2) copies of the Final Map be submitted for review and approval. Gross and net lot area shall be shown for each parcel.
4. Water, sewer, and available utilities shall be extended onto each lot to the specifications of the affected agencies providing the facilities and utilities and to the satisfaction of the Department of Public Works. The improvements shall be inspected by the affected agency and a certificate of acceptance of the improvements from the agency shall be filed with the County Public Works Department prior to recordation of the map. Letters from the Manila Community Services District and Pacific Gas and Electric indicating completion of the required work shall satisfy this condition.
5. The applicant shall submit at least three (3) copies of a Development Plan for all parcels to the Planning Division for review and approval. The map shall be drawn to scale and give detailed specifications as to the development and improvement of the site, and shall include items 5(a) through (g) of the Public Works Memorandum dated May 24, 2005, included herein as Exhibit A of Attachment 1, and the following site development details:
  - A. Mapping
    - (1) Topography of the land in 1-foot contour intervals;
    - (2) Proposed access, parking lanes and pedestrian ways;
    - (3) Building envelopes and easements;
    - (4) The location of all drainage improvements and related easements;
    - (5) Four (4) off-street parking spaces on each parcel;
    - (6) The location of Areas of Building Exclusion, where applicable.
    - (7) Wetland Buffer Area for the delineated wetlands labeled "non-buildable". Note: All building site development, including driveways, shall remain outside of mapped wetlands and wetland buffer areas and shall substantially conform to the building site locations as depicted on the Tentative Map.
    - (8) Fencing or similar feature along the wetland buffer boundary to protect the identified buffer (See Condition of Approval #10 below).

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B. Notes to be Placed on the Development Plan:

(1) "The project site is not located within an area where known cultural resources have been located. However, as there exists the possibility that undiscovered cultural resources may be encountered during construction activities, the following mitigation measures are required under state and federal law:

- If cultural resources are encountered, all work must cease and a qualified cultural resources specialist contacted to analyze the significance of the find and formulate further mitigation (e.g., project relocation, excavation plan, protective cover).
- Pursuant to California Health and Safety Code §7050.5, if human remains are encountered, all work must cease and the County Coroner contacted."

The applicant and successors in interest are ultimately responsible for ensuring compliance with this condition.

(2) "The project is located in a designated non-attainment area for the state's health-based particulate matter (PM10) air quality standard. As such, additional emission from the project (construction of two single family residences) could exacerbate air quality problems, including non-attainment of ambient air quality standards. In order to address potential effects to air quality the District recommends:

- Prohibition of open fireplaces.
- Heating should be provided using clean fuels (electricity or natural gas), when feasible.
- If wood heating must be used, only US Environmental Protection Agency (EPA) certified heating appliances should be permitted in new construction."

(3) "Parcels 1 through 3 of this subdivision are shown on the Planning Scenario for a Great Earthquake on the CSZ (CDMG, 1995, Map S-1) as being within the zone of potential inundation by a tsunami. The scenario earthquake is assumed to generate a local tsunami that will arrive just minutes after the earthquake occurs. On the Samoa Peninsula, strong shaking should be taken as a warning of a potential tsunami, and individuals should immediately move to higher ground. A possible refuge might be afforded by the 1.5 mile long by 300 foot wide ridge of wooded dunes located just west of the subject parcel, approximately 2 miles north of Samoa. Owners and occupants of residential development on these parcels are encouraged to become familiar with, and participate in, activities and planning efforts for evacuation to a "safe zone" in the event of a tsunami. Please contact the County Office of Emergency Services for more information."

(4) "All new development within the wetland buffer shall require the issuance of a Special Permit and include the following mitigation measures:  
(a) Not more than 25% of the lot surface shall be effectively impervious  
(b) The release rate of storm runoff to adjacent wetlands shall not exceed the natural rate of storm runoff for a 50 year storm of 10 minute duration.  
(c) Storm water outfalls, culverts, gutters, and the like shall be dissipated.  
(d) Septic systems or alternative waste disposal systems must meet standards of the Humboldt County Division of Environmental Health and the Regional Water Quality Control Board.

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(e) Areas disturbed during construction, grading, etc., within 100 feet of the mean high water line, shall be restored to original contours and sufficiently and promptly replanted with vegetation naturally occurring in the immediate area.

(f) Development and construction shall minimize cut and fill operations and erosion and sedimentation potentials through construction of temporary and permanent sediment basins, seeding or planting bare soil, diversion of runoff away from graded areas and areas heavily used during construction, and, when feasible, avoidance of grading during the rainy season (November through April)."

- (5) "The lots in this subdivision were created using a Lot Size Modification."
- (6) Prior to Parcel Map recordation for Parcel 2, and prior to building permit issuance on parcels 1 and 3, the applicant/owner shall install a fence or similar feature along the wetland buffer boundary to protect the identified buffer. Fencing materials should avoid the use of concrete, which will adversely affect soil chemistry of the wetland area. Furthermore, a fence should only consist of non-treated wood or other chemical-free material to avoid impacts to wetland areas. This barrier shall be maintained for the life of the development by the owners of the affected parcels."
- (7) "Please note that the information and requirements described and/or depicted on this Development Plan are current at the time of preparation but may be superceded or modified by changes to the laws and regulations governing development activities. Before commencing a development project, please contact the Planning Division to verify if any standards or requirements have changed."

6. The applicant shall cause to be recorded a "Notice of Development Plan" for all parcels on forms provided by the Humboldt County Planning Division. Document review fees as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$146.00 plus applicable recordation fees) will be required. The Development Plan shall also be noticed on the Parcel Map.
7. A map revision fee as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$77 per parcel) as required by the County Assessor's Office shall be paid to the County Community Development Services Department, 3015 H Street, Eureka. The check shall be made payable to the "Humboldt County Planning Division". The fee is required to cover the Assessor's cost in updating the parcel boundaries.
8. A review fee for Conformance with Conditions as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$95.00) shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka. This fee is a deposit, and if actual review costs exceed this amount, additional fees will be billed at the County's current burdened hourly rate. Please see Informational Note 1 below for suggestions to minimize the cost for this review.
9. This parcel, as well as all others in the Manila area, is shown on the Planning Scenario for a Great Earthquake on the Cascadia Subduction Zone (CSZ, CDMG, 1995, Map S-1) as being within the zone of potential inundation by a tsunami. As part of the project proposal, the applicant is voluntarily contributing to the Tsunami Ready Program Fund for the Manila area. Evidence of applicant's contribution to the Tsunami Ready Fund administered by the County Office of Emergency Services (OES) and the National Weather Service shall be provided prior to recordation of the Parcel Map. Use of the funds shall include but not be limited to installation of an active warning system (i.e., warning sirens) or for other Tsunami Ready activities such as tsunami education, identification of evacuation routes, and signage.

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- 10. The applicant shall install a fence or similar feature along the wetland buffer boundary to protect the identified buffer. Fencing materials should avoid the use of concrete, which will adversely affect soil chemistry of the wetland area. Furthermore, a fence should only consist of non-treated wood or other chemical-free material to avoid impacts to wetland areas. This fence shall be installed prior to recordation of the Parcel Map on Parcel 2 and may be deferred to building permit issuance on Parcel 1 and 3 if noted on the Development Plan.
- 11. Within five (5) days of the effective date of the approval of this permit, the applicant shall submit a check to the Planning Division in the amount of \$25.00 (document handling fee) pursuant to Section 711.4 of the Fish and Game Code.
- 12. Prior to any ground disturbing activities, a cultural monitor shall be retained to observe all earthwork to the satisfaction of the Wiyot Tribe. This monitor shall be present during any new excavation and shall remain on site until no additional excavation activities are required or to the satisfaction of the Wiyot Tribe.

Informational Notes:

- 1. To minimize costs the applicant is encouraged to bring in written evidence\* of compliance with all of the items listed as conditions of approval in this Exhibit that are administered by the Planning Division (Namely: Conditions 2-12). The applicant should submit the listed item(s) for review as a package as early as possible before the desired date for final map checking and recordation. Post application assistance by the Planner on Duty, or by the Assigned Planner, with prior appointment, will be subject to a Special Services Fee for planning services billed at the County's current burdened hourly rate with an initial deposit as set forth in the Planning Division's schedule of fees and charges (currently \$95.00). Copies of all required forms and written instructions are included in the final approval packet.

\* Each item evidencing compliance except legal documents to be recorded should note in the upper right hand corner:

Assessor's Parcel No. \_\_\_\_\_, Condition \_\_\_\_\_  
(Specify) (Specify)

- 2. The Coastal Development Permit and Special Permit shall be effective for 24 months to coincide with the term of the approved Tentative Map. Extensions of this term may be requested in conformance with provisions of the Humboldt County Code.

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## ATTACHMENT 1 B

## Conditions of Approval for Blanket Coastal Development and Special Permit

APPROVAL OF THE "BLANKET" COASTAL DEVELOPMENT AND SPECIAL PERMIT IS  
CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS:

1. All exterior lighting shall be shielded such that it is not directed off of the parcel or into the wetland area.
2. Connection to Manila Community Services District water and sewer service shall be required before the building permit final is issued.
3. All development pursued under this coastal development permit is subject to the environmental impact mitigation measures included in the Mitigated Negative Declaration.
4. All development pursued under this coastal development permit is subject to the following restrictions:
  - building heights shall not exceed **30 feet**,
  - gross floor area of house (exclusive of garage and detached appurtenant structures) shall not exceed 2,000 square feet,
  - building sites shall be in conformance with zoning setbacks and lot coverage restrictions,
  - parking shall be provided in accordance with that specified in the zoning regulations.
5. Prior to any ground disturbing activities, a cultural monitor shall be retained to observe all earthwork to the satisfaction of the Wiyot Tribe. This monitor shall be present during any new excavation and shall remain on site until no additional excavation activities are required or to the satisfaction of the Wiyot Tribe.
6. The following recommendations included in the Wetland Delineation performed by Mad River Biologists dated December 2005 shall be implemented:
  - a. Position all high use areas such as walkways, points of entry, parking areas, and decking as far away as possible from the wetland, and/or establishing fencing between residential areas and wetland areas to limit access and potential anthropogenic disturbances.
  - b. Minimizing the amount of impervious substrate by constructing driveways, walkways and parking areas within or adjacent to buffer areas out of a porous paving material or gravel, and/or directing runoff away from the wetland to an on-site stormwater detention basin.
  - c. Limiting vegetation removal in upland areas and re-planting construction areas immediately upon completion of the project to avoid erosion and maintain a vegetative buffer between developed areas and the adjacent wetland.
7. The property owner shall execute and file with the Planning Division the statement titled "*Notice and Acknowledgment of Tsunami Hazard*". Contact the Planning Division for a copy of the required form.

(To apply if second residence is to be constructed prior to recordation of parcel map)
8. The applicant shall conform with the requirements of Humboldt County Code Section 313-87.1.3.7 regarding issuance of permits within any two (2) year period.
9. Applicant shall comply with the provisions, development and design standards of §313-87.1, Second Residential Unit (HCC) for the life of the project.

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10. Both the primary residence and the second dwelling unit shall remain under the same ownership; the second dwelling unit shall not constitute a subdivision of the parcel.
11. This permit is restricted to a single residence in addition to the existing manufactured home on the subject parcel (APN 400-151-01).

Informational Notes:

1. The Coastal Development Permit for construction of one single family residence on Parcel 1 and Parcel 3 (floor area maximum of 2,000 sq. ft.), or a second dwelling on APN 400-151-01, shall expire and become null and void at the expiration of two (2) years after all appeal periods have lapsed (see "Effective Date"); except where construction under a valid building permit or use in reliance on the permit has commenced prior to such anniversary date. The period within which construction or use must be commenced may be extended as provided by Section 312-11.3 of the Humboldt County Code.
2. Release of the building permit on Parcel 3 shall be subject to prior recordation of the Parcel Map for Case No. PMS-05-22.

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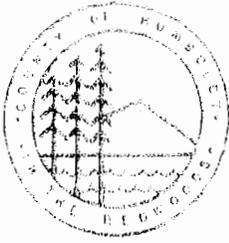


EXHIBIT A

DEPARTMENT OF PUBLIC WORKS

COUNTY OF HUMBOLDT

MAILING ADDRESS: 1106 SECOND STREET, EUREKA, CA 95501-0579  
AREA CODE 707/FAX 445-7409

ARCATA-EUREKA AIRPORT TERMINAL  
McKINLEYVILLE

AVIATION 839-5401

PUBLIC WORKS BUILDING  
SECOND & L ST., EUREKA

ADMINISTRATION	445-7491	NATURAL RESOURCES	445-7741
BUSINESS	445-7652	PARKS	445-7851
ENGINEERING	445-7377	ROADS & EQUIPMENT MAINT.	445-7421
	ARCHITECT	445-7493	

CLARK COMPLEX  
HARRIS & H ST., EUREKA

LAND USE 445-7205

TO: Trevor Estlow, Planner II

FROM: Robert W. Bronkall, Associate Engineer *Rf*

RE: SUBDIVISION REQUIREMENTS - IN THE MATTER OF THE  
APPLICATION OF MICHAEL FENNEL, APN 400-151-01, PMS-05-22 FOR  
APPROVAL OF A TENTATIVE MAP, CONSISTING OF ~3.7 ACRES INTO  
3 LOTS

DATE: 4/25/06

*The following requirements and standards are applicable to this project and must be completed to the specifications and satisfaction of the Department of Public Works (Department) before the subdivision map may be filed with the County Recorder. If there has been a substantial change in the project since the last date shown above, an amended report must be obtained and used in lieu of this report. Prior to commencing the improvements indicated below, please contact the Subdivision Inspector at 445-7205 to schedule a pre-construction conference.*

These recommendations are based on the tentative map prepared by Kelly-O'Hern Associates dated Jan. 12, 2006.

**NOTE:** All correspondence (letters, memos, faxes, construction drawings, reports, studies, etc.) with this Department must include the Assessor Parcel Number (APN) shown above.

**READ THE ENTIRE REPORT BEFORE COMMENCING WORK ON THE PROJECT**

**1. MAPPING**

(a) Applicant must cause to be filed a parcel map (subdivision map) showing monumentation of all property corners to the satisfaction of this Department in compliance with Section 326-15 of the Humboldt County Code. Subdivision map checking fees shall be paid in full at the time the subdivision map is submitted for checking. County Recorder fees shall be paid prior to submittal of the map to the County Recorder for filing. The subdivision map must be prepared by a Land Surveyor licensed by the State of California -or- by a Civil Engineer registered by the State of California who is authorized to practice land surveying.

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All Department charges associated with this project must be paid in full prior to the subdivision map being submitted to the County Recorder for filing.

(b) DEPOSIT: Applicant shall be required to place a security deposit with this Department for inspection and administration fees as per Section 326-13, Improvement Review and Inspection Fees, of the Humboldt County Code prior to review of the construction plan, review of the subdivision map, or the construction of improvements, whichever occurs first.

(c) EASEMENTS: All easements that encumber or are appurtenant to the subdivision shall be shown graphically on the subdivision map. Those easements that do not have a metes and bounds description shall be noted on the subdivision map and shown as to their approximate location.

(d) At least some of the parcels may be further divided; therefore, the applicant shall conform to Humboldt County Code Section 323-6(a)(5), Statements to Accompany a Tentative Subdivision Map. This condition may be removed if the Community Development Services Department determines in writing that no further subdivision development of the parcels is possible.

(e) DEDICATIONS: The following shall be dedicated on the subdivision map, or other document as approved by this Department:

(1) Applicant shall dedicate to the County of Humboldt a 10 foot public utility easement and overlapping 10 foot wide pedestrian easement along the frontage of the subdivision in a manner approved by this Department. The purpose of the easement is for use by Public Utility Districts, Public Utility Companies, and for public pedestrian facilities.

## 2. IMPROVEMENTS

(a) CONSTRUCTION PLANS: Construction plans shall be submitted for any required road, drainage, landscaping, and pedestrian improvements. Construction plans must be prepared by a Civil Engineer registered by the State of California. Construction of the improvements shall not commence until authorized by this Department.

The construction plans shall show the location of all proposed new utilities and any existing utilities within 10 feet of the improvements. The plans shall be signed as approved by the local fire response agency and public utility companies having any facilities within the subdivision prior to construction authorization by this Department.

Construction plans shall be tied into elevation datum approved by this Department.

(b) Construction of improvements for this project will not be allowed to occur between October 15 and April 15 without permission of this Department.

(c) Applicant shall be required to widen Peninsula Drive along the frontage of the subdivision to allow for a minimum 12 foot driving lane and 8 foot parking lane. The outside edge of the parking lane shall be located 5 feet easterly and parallel with the subdivision property line fronting Peninsula Drive. The widening shall be transitioned back to the existing road section at each end of the project in a manner approved by this Department

The proposed improvements may require the undergrounding or relocation of existing facilities at the expense of the applicant. Undergrounding of existing facilities, relocation of existing facilities, or construction of new facilities shall be completed prior to constructing the structural section for the roadway.

At a minimum, the structural section of the road improvements shall include 0.2 foot of Caltrans Type B asphalt concrete (AC) over 0.5 foot of Caltrans Class 2 aggregate base. If required by this Department, the structural sections of all roads shall be determined by Caltrans R-Value method using a Traffic Index (T.I.) approved by this Department.

When widening asphalt concrete (AC) roads, the widened road shall be paved with AC. A sawcut is typically required to ensure a uniform joint between the existing and new pavements. The location of the sawcut shall be approved by this Department based upon the condition of the existing road surface.

(d) Nothing is intended to prevent the applicant from constructing the improvements to a greater standard.

(e) Nothing is intended to prevent this Department from approving alternate typical sections, structural sections, drainage systems, and road geometrics based upon sound engineering principals as contained in, but not limited to, the Humboldt County Road Design Manual, Caltrans Highway Design Manual, Caltrans Local Programs Manual, Caltrans Traffic Control Manual, Manual on Uniform Traffic Control Devices, and AASHTO's A Policy of Geometric Design of Highways and Streets (AKA "The Green Book"). Engineering must not be in conflict with Humboldt County Code or County adopted guidelines and policies.

(f) DRIVEWAYS: Any new accesses from the County road will require encroachment permits from this Department. The location of existing and proposed driveway aprons (access openings) shall be shown on the construction plans. The proposed accesses will be evaluated after application is received.

All access openings shall conform to Humboldt County Code Section 341 regarding visibility.

Any existing accesses that do not conform shall be paved with asphalt concrete for the width of the driveway and a distance of 25 feet from the edge of the County road prior to filing of the map.

(g) UTILITIES: If any utilities are required to be installed as a condition of tentative map approval by the Community Development Services Department - Planning Division, the utility work shall be completed prior to constructing the structural section for the road. All laterals shall be extended onto each lot and marked in a manner that they will be easily located at the time of individual hookups. A letter of completion of all work from each involved utility company shall be submitted prior to constructing the roadway structural section. Any utilities that need to be relocated shall be done solely at applicant's expense.

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### 3. DRAINAGE

Applicant shall be responsible to correct any involved drainage problems to the satisfaction of this Department.

### 4. GRADING

Applicant shall submit an engineered grading plan to this Department for approval addressing the entire project construction areas. No grading within the subdivision or any off-site rights of way shall occur prior to approval of the plan by this Department.

The criteria for the grading plan is that the buildable portion of each parcel shall drain to the wetland area, to the west, within each parcel without crossing an adjacent parcel's buildable area.

An erosion control plan (aka, sediment control plan, Storm Water Pollution Plan, etc.) addressing erosion from storm water runoff and wind shall accompany the grading plan.

For construction sites larger than 1 acre, a Notice of Intent (NOI) may be required to be filed with the California Regional Water Quality Control Board. A copy of the NOI, if submitted, shall be provided to this Department prior to the start of construction.

### 5. DEVELOPMENT PLAN

(a) The development plan shall be legibly drawn to a convenient scale on 24"x36" mylar, in black ink, unless approved otherwise by this Department.

(b) The development plan shall include all encumbrances of record as shown on a current title report as well as those created on the subdivision map.

(c) The development plan shall include the following to the satisfaction of this Department:

- When roads or drainage facilities are not to be maintained by the County, then clearly state next to the facility "NOT COUNTY MAINTAINED".

- When minimum finished floor elevations must be adhered to, the plan shall state the minimum elevation and the referenced benchmark.

- Reference the soils report prepared for the project; including a statement substantially similar to: "See soils report prepared by \_\_\_\_\_, Project No. \_\_\_\_\_, dated \_\_\_\_\_, for recommendations, inspections, and special requirements required for development of this subdivision."

- When improvement plans have been prepared in conjunction with proposed subdivision, include a statement substantially similar to: "Improvement plans for roads, driveways, and drainage, etc. are on file with the Department of Public Works".

- Building setbacks to allow for the ultimate development of parcels that could be further subdivided.

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(d) The development plan shall include a statement signed by the Surveyor (or Civil Engineer) who signed the subdivision map. The statement shall be substantially similar to the following: "All encumbrances of record as of the date of the referenced title report are correctly shown on this plan; that all encumbrances created on the filed subdivision map are correctly shown on this plan; that approximate distances from existing fence corners to the actual property corners, if not the same, are shown on this plan. Title report prepared by \_\_\_\_\_, Order No. \_\_\_\_\_, dated \_\_\_\_\_."

(e) Applicant shall cause a "Notice of Development Plan" to be recorded in the Office of the County Recorder.

(f) The development plan shall be signed off by this Department prior to official filing with the Planning Division. The plan shall include a signoff block for this Department to sign substantially similar to:

Reviewed by:

\_\_\_\_\_  
Department of Public Works

\_\_\_\_\_  
Date

(g) Typical precise grading/lot drainage details for the lots shall be shown.

// END //

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## ATTACHMENT 2

## Staff Analysis of the Evidence Supporting the Required Findings

**Required Findings:** To approve this project, the Planning Commission must determine that the applicants have submitted evidence in support of making **all** of the following required findings.

A. Subdivision Findings: Section 66474 of the State Subdivision Map Act and Title III Division 2 of the Humboldt County Code (HCC) specify the findings that must be made to approve tentative subdivision maps. Basically, the Hearing Officer may approve a tentative map and the special permit if the applicants have submitted evidence which supports making all of the following findings:

1. That the proposed subdivision together with the provisions for its design and improvements, is consistent with the County's General Plan.
2. That the tentative subdivision map conforms with the requirements and standards of the County's subdivision regulations.
3. That the proposed subdivision conforms to all requirements of the County's zoning regulations.
4. The proposed subdivision is not likely to cause substantial environmental damage.

B. Coastal Development Permit and Special Permit Findings: The Coastal Zoning Ordinance, Section 312-17.1 of the Humboldt County Code (Required Findings for All Discretionary Permits) specifies the findings that are required to grant a Coastal Development Permit and Special Permit:

1. The proposed development is in conformance with the County General Plan;
2. The proposed development is consistent with the purposes of the existing zone in which the site is located;
3. The proposed development conforms with all applicable standards and requirements of these regulations; and
4. The proposed development and conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to property or improvements in the vicinity.
5. Title III, Division 1, Chapter 2 of the H.C.C. specifies that in addition to the required findings specified in Title III, Division 1, of the H.C.C., the Hearing Officer may approve or conditionally approve an application for a Special Permit and Coastal Development Permit only if the following Supplemental Findings are made.

## Secondary Dwelling Unit

The secondary dwelling unit is subordinate to the principal residence and is compatible with the character of the neighborhood.

## Coastal Dune and Beach Areas

- a) Development shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas;
- b) There is no less environmentally damaging feasible alternative; and
- c) The development will not interfere with the protection of dredge spoils disposal locations designated on the Humboldt Bay Area Plan Resource Protection Maps.

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In addition, the California Environmental Quality Act (CEQA) states that one of the following findings must be made prior to approval of any development which is subject to the regulations of CEQA. The project either:

- a) is categorically or statutorily exempt; or
- b) has no substantial evidence that the project will have a significant effect on the environment and a negative declaration has been prepared; or
- c) has had an environmental impact report (EIR) prepared and all significant environmental effects have been eliminated or substantially lessened, or the required findings in Section 15091 of the CEQA Guidelines have been made.

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**Staff Analysis:**

**SUBDIVISION, COASTAL DEVELOPMENT PERMIT AND SPECIAL PERMIT FINDINGS**

A.1/B.1. General Plan Consistency: The following table identifies the evidence which supports finding that the proposed subdivision is in conformance with all applicable policies and standards in Chapters 2-4 of the Framework Plan (FP) and Humboldt Bay Area Plan (HBAP).

Plan Section(s)	Summary of Applicable Goal, Policy or Standard	Evidence Which Supports Making the General Plan Conformance Finding
Urban Land Use Subdivision §2632 (FP)	To accommodate expected population growth and resulting urban development and provide orderly and economical services with the least effect on the environment.	The proposed subdivision is residential in-filling in an urban area with available community water and sewer services; and access to county-maintained roads.
Residential Estates (RE) §4.10 (HBAP)	Residential Estates (RE): Allowable density = 0 to 2 dwelling units per acre as designated by the Humboldt Bay Area Plan.	Subdivision of the existing 3.7 acre parcel would create 3 residential lots with a resultant density of 0.81 dwellings per acre which is within the range but does not quite meet the target, or midpoint density of 1 unit per acre. However, given the wetland constraints of the parcel, additional dwelling units may not be possible except for second dwelling units, which would in turn, exceed the midpoint density.
Geologic §3.17 (HBAP)	New development shall minimize risks to life and property in areas of high geologic, flood and fire hazard.	The property is in an area of relatively stable soils, and a geologic report is discretionary. The Building Inspection Division did not identify the need for a soils report. The project is located in an area with a fire hazard rating of nil and within a flood zone "C", areas of minimal flooding.
Noise § 3240 (FP)	The maximum acceptable exterior noise level for residences is 60dB without any additional insulation being required.	The layout of the lots, with frontage on Peninsula Road will situate the residences over 400 feet from New Navy Base Road, the main noise source in the area. Noise analysis conducted for the Samoa Master Plan DEIR for traffic noise on New Navy Base Road indicates that increase traffic due to residential developments will not exceed the FP noise standard provided that residential structures within 100' of New Navy Base Road are provided with a noise barrier of 6'. Given that this parcel is over 400 feet from New Navy Base Road and separated by residential lots and heavy vegetation, it is not anticipated that the new residences will be subject to noise levels exceeding the standard.

44974

<p>Flood Hazards §3291.3 (FP)</p>	<p>All new development shall conform with the County Flood Insurance Program.</p>	<p>The proposed building sites are located outside mapped flood hazard areas. The site is shown on the Planning Scenario for a Great Earthquake on the CSZ (CDMG, 1995, Map S-1) as being within the zone of potential inundation by a tsunami. The scenario earthquake is assumed to generate a local tsunami that will arrive just minutes after the earthquake occurs. On the Samoa Peninsula, strong shaking should be taken as a warning of a potential tsunami, and individuals should immediately move to higher ground. A possible refuge might be afforded by the 1.5 mile long by 300 foot wide ridge of wooded dunes located just west of the project site 2 miles north of Samoa. As part of the project proposal, the applicant is voluntarily contributing to the Tsunami Ready Program Fund administered through OES. In addition, a condition of approval requires the applicant to sign a "Notice and Acknowledgement of Tsunami Hazard."</p>
<p>Sensitive Habitats §3.30 (HBAP)</p>	<p>To protect designated sensitive habitats and cultural resources.</p>	<p>A Wetland Delineation was performed by Mad River Biologists and identified woody dune hollow wetland and upland dune habitat. The proposed project maintains a 100 foot buffer (as required in the HBAP) from the edge of the delineated wetlands except for a small portion of proposed Parcel 3 where the buffer will be reduced to 90 feet. Appropriate mitigation has been included as conditions of approval to allow the standard 100 foot buffer to be reduced by 10 feet. A fence or similar feature is required to protect the buffer. The Wetland Delineation was sent to the Department of Fish and Game (DFG) for their review and comments. DFG did not respond with any comments.</p> <p>After a review by the North Coastal Information Center, Division of Natural Resources and the Wiyot Tribe, it was determined that during any grading/excavating activities, a cultural monitor shall be present. This has been made a condition of approval.</p>
<p>Public Services §4100 – 4820 (FP)</p>	<p>All subdivisions shall provide road access to County maintained roads</p>	<p>The property can be accessed via Peninsula Drive a County maintained road.</p>

45974

A.2. Subdivision Regulations: The following table identifies the evidence which supports the finding that the proposed subdivision is in conformance with all applicable policies and standards in Section 66474 of the State Subdivision Map Act and Title III Division 2 of the Humboldt County Code (HCC).

Section(s)	Summary of Applicable Subdivision Requirements	Evidence Which Supports Making The Subdivision Requirement Finding
Lot Suitability 322-3	All lots shall be suitable for their intended uses.	The staff site inspections and service provider comments in Attachment 4 all indicate that the proposed parcels can be developed with single family residences.
Access and Drainage 324-1	Improvements shall be required for the safe and orderly movement of people and vehicles.	<p>On the tentative map submitted for the proposed subdivision, it is concluded that the net increase of surface runoff can be accommodated on site. Currently, the slope of the parcel is such that the majority of the drainage flows to the west towards the wetland areas. The topography of proposed Parcel 1 is such that drainage flows towards the road. The applicant does not propose to change existing drainage patterns. In order to accommodate all drainage on site, the applicant is required to document that off site runoff will not increase over what has historically occurred on site. This shall not change. As part of the reduced setback request, development within the reduced setback has been conditioned to minimize impervious surfaces and direct runoff away from the wetland so that it is dissipated and does not enter the wetland in a concentrated manner. The applicant shall be responsible to correct any involved drainage problems to the satisfaction of the Department of Public Works as this has been made a condition of approval.</p> <p>The applicant will construct road and drainage improvements and all utilities as described in the Public Works Department recommendations (Exhibit "A" of Attachment 1).</p>
Sewer & Water 324-1 (d)	The subdivider shall construct the sewer and water systems to the standards of the governmental entities, which will accept and maintain those systems.	The Manila Community Services District (MCSD) currently serves the existing residence and will provide water and sewer service to the other two lots. The subdivider will install water and sewer services to the satisfaction of MCSD.

46974

<p>Access Road App. 4-1</p>	<p>Roadway design must incorporate a 40-foot right of way.</p>	<p>The subdivision access road (Peninsula Drive) is a County road with a 40 foot wide right of way.</p>
<p>Parking App. 4-2</p>	<p>If the subdivision does not provide for on-street parking, room for five vehicles must be provided for each parcel.</p>	<p>The subdivision is conditioned with a requirement that each lot provide the required off-street parking. A parking lane is proposed as part of the subdivision.</p>
<p>Lot Size Modification §313-99.1, HCC  <i>In order to better design and cope with difficulties due to topography and other natural or man-made features, minimum lot size...in all zones may be modified subject to securing an SP.</i>  §325-11, HCC</p>	<p>Minimum lot size may be reduced by 50%, but cannot create a parcel greater than 1.8 times the allowed minimum.</p>	<p>The subject parcel is currently approximately 3.7 acres in size. The parcel is currently developed with an existing single family residence and a detached accessory structures. The configuration of the parcel and large amount of coverage by wetland and wetland buffer (approximately 3 acres) necessitate flexibility in lot design. In order to subdivide the property, the applicant is proposing a lot size modification. The minimum lot size required by zoning is 20,000 square feet. Proposed Parcel 1 would be approximately 15,670 square feet and proposed Parcel 2 would be approximately 15,000 square feet. Given the usable area on the parent parcel is approximately 30,000 square feet when the wetland and wetland buffer are calculated out, the exception will better protect the wetland as it will be kept under one ownership consistent with prior recommendations from DF&amp;G. Furthermore, this will allow the wetland to be placed under a conservation easement more easily if the property owner so chooses.</p> <p>A condition of approval requires the Development Plan to include a notation as to the creation of these parcels using the lot size modification exception.</p>

47974

A.3./B2./B.3 Zoning Compliance: The following table identifies the evidence which supports finding that the proposed subdivision is in conformance with all applicable policies and standards in the Humboldt County Zoning Regulations.

Zoning Section Residential Single Family RS-20-M/B	Summary of Applicable Requirement	Lots 1-3 Evidence
Principal Permitted Use:	One single family dwelling per parcel	Each proposed to be developed with a single family residence.
Minimum Parcel Size:	20,000 s.f.	Parcel 1: 15,670 square feet Parcel 2: 15,000 square feet Parcel 3: 2.95 acres A special permit is requested for the exception to minimum parcel size. Section 313-99.1.1.2 allows for minimum parcel size to be modified down to a minimum of fifty percent (50%) of the required lot size, or 5,000 square feet, whichever is greater. In this case the applicant is requesting an exception due to the wetland and wetland buffer across the majority of the parcel thereby reducing the "developable" area considerably. The Planning Commission (Calleja, PMS-01-08) has previously found such parcel configurations to be consistent with the lot size modification provisions where the larger parcel contains an open space feature.
Minimum Lot Width at front yard setback:	50 feet	Parcel 1: 77.5 feet Parcel 2: 79.49 feet Parcel 3: 90 feet
Maximum Lot Depth:	3 x width	Parcel 1: ±230 feet Parcel 2: ±195 feet Parcel 3: ±794 feet
Lot Coverage	35% maximum	Parcel 1 and 2: Complies. <i>Note: Existing residential accessory structures on Parcel 1 are to remain. These buildings are located outside of proposed building pad.</i>
Yard Setbacks:		
Front	20' min.	Proposed Parcel 2 meets this requirement. Proposed residences on Parcel 1 and 3 meet the setback requirement.
Rear	10' min.	Proposed Parcel 2 meets this requirement. Proposed residences on Parcel 1 and 3 meet the setback requirement.

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Side	5' min.	Proposed Parcel 2 meets this requirement. Proposed residences on Parcel 1 and 3 meet the setback requirement.
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<b>§313-17.1</b>	<b>Beach and Dune Area Combining Zone</b>	
Requirements:	To ensure that any development permitted in coastal beach and dune areas, as designated in the Coastal Land Use Plan Resource Protection Maps, will not detract from the area's natural resource value or their potential for providing recreational opportunity.	A Wetland Delineation was prepared by Mad River Biologists that identified wetlands on site and provided for a wetland buffer. An area west of the wetland contains mostly dune and coastal pine forest that will remain entirely on one parcel and no development is proposed in this area. Therefore, the natural resource value will remain intact and allow for placement of a conservation easement over the wetlands if the owner so chooses.
<b>§313-28.1</b>	<b>Manufactured Home Combining Zone</b>	
Requirements:	Allows manufactured homes as principally allowed.	No manufactured homes are proposed.

B.5 Supplemental Findings

<b>§312-25.1</b>	<b>Supplemental Secondary Dwelling Unit Findings</b>	
The secondary dwelling unit is subordinate to the principal residence and is compatible with the character of the neighborhood. The development is consistent with General Plan policies regarding maintenance of open space, retention of agriculture and timber lands, and protection of the environment.	The proposed secondary dwelling unit (existing manufactured home on Parcel 2) is subordinate to the principal dwelling (proposed 1900 sq.ft. residence on Parcel 1) due to its smaller size (approximately 45% of the primary unit). The subject property has not been identified as a designated open space area, and is not used for agriculture or timber production. Therefore the secondary dwelling unit may be found consistent with the requirements of this finding.	
<b>§312-39.6</b>	<b>Supplemental Coastal Resource Protection Impact Findings</b>	
Development shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas;	All development is sited at least 90 feet from the delineated wetland between the proposed buffer and the County Road. The entire wetland will be placed on one parcel to more easily allow a conservation easement be placed on the property is the owner so chooses.	
There is no less environmentally damaging feasible alternative; and	All development is sited to the far eastern portion of the parcel to avoid impacts to the wetland.	
The development will not interfere with the protection of dredge spoils disposal locations designated on the Humboldt Bay Area Plan Resource Protection Maps.	The HBAP Resource Maps do not identify this area as a dredge spoil disposal site.	

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A.4/B.4 Public Health, Safety and Welfare and A.6/B.6 Environmental Impact:

<b>The project will not be detrimental to the public health, safety and welfare because:</b>	<b>Evidence supporting the finding:</b>
All reviewing referral agencies have approved or conditionally approved the proposed project design.	See Attachment 4.
The proposed project is consistent with the general plan.	See Section 1, above.
The proposed project is consistent with the zoning.	See Section 3, above.
The proposed project will not cause environmental damage.	See below and initial study (Attachment 5)

Environmental Impact:

As required by the California Environmental Quality Act, the initial study conducted by the Planning Division (Attachment 5) evaluated the project for any adverse effects on the environment. Based on a site inspection, information in the application, and a review of relevant references in the Department, staff has determined that there is no evidence before the Department that the project will have any potential adverse effect, either individually or cumulatively, on the environment. The environmental document on file in the Department includes a detailed discussion of all relevant environmental issues.

Staff has also determined that the project, as approved and conditioned, will not result in a change to any of the resources listed in subsections (A) through (G) of Section 753.5(d) of the California Code of Regulations [Title 14, Chapter 4]. Therefore, staff is supportive of a *di minimis* finding regarding the waiver of environmental review fees subject to Section 711.4 of the Fish and Game Code. The Department will file a "Certificate of Fee Exemption" with the County Clerk pursuant to Section 753.5(c) of the California Code of Regulations. The \$25.00 document handling fee required by the statute will be paid by the applicant.

50974

## ATTACHMENT 3

## Applicants' Evidence In Support of the Required Findings

Document	Date Received by Planning	Location
Tentative Subdivision Map	1/13/06	Attached
Application Form	1/13/06	On file with Planning
Preliminary Title Report	1/13/06	On file with Planning
Exception Request for minimum parcel size	6/28/06	Attached
Wetland Delineation (MRB, Dec. 2005)	1/13/06	Attached
Second Dwelling Unit Fact Sheet	6/28/06	On file with Planning
Elevations of Second Dwelling Unit	6/28/06	On file with Planning

51974

June 28, 2006

Michael Fennell  
1480 Peninsula Drive  
Manila, CA 95521  
APN: 400-151-01

RECEIVED

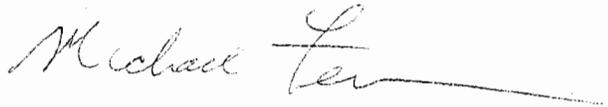
JUN 28 2006

HUMBOLDT COUNTY  
PLANNING COMMISSION

Re: Exception Request for minimum parcel size requirement

This is a request for an exception to the minimum parcel size required for the zone. The property is zoned RS-20-M/B which specifies a minimum parcel size of 20,000 square feet. Given that almost 3 acres of the 3.7 acre parcel consist of wetland, wetland buffer and coastal pine forest, the building sites are located in the far eastern portion of the property. The exception will allow the creation of three parcels that could support a potential of six dwelling units if they were developed with second dwelling units. This will add to the housing inventory and allow the wetland to remain entirely under one ownership for better management of that wetland. Without the exception, the subdivision would compromise the integrity of the wetland by dividing it up into multiple ownerships. Granting this exception will not be detrimental to the public or to any neighbors as there is no visible negative consequence to this shaped lot.

Thank you for your consideration, Michael Fennell



52474

**ATTACHMENT 5**  
**Initial Study and Draft Mitigated Negative Declaration**

53474

**Notice of Completion**

See NOTE below

SCH# ~~2006-072028~~

Mail to: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95814-3044 (916) 445-0613

**Project Title:** Fennell Minor Subdivision, Coastal Development and Special Permit

Lead Agency: Humboldt County Community Development Services

Contact Person: Trevor Estlow, Senior Planner

Street Address: 3015 H Street

City: Eureka, CA 95501

Phone: (707) 268-3740

Fax: (707) 445-7446

Email: testlow@co.humboldt.ca.us

**Project Location**

County: Humboldt

City/Nearest Community: Manila

Cross Streets: Peninsula Drive and New Navy Base Rd

Zip Code: 95521

Acres of Project: 3.7 acres

Assessor's Parcel Nos. 400-151-01

Section: 3; T5N R1W Base; H.B.& M

Within 2 Miles: State Hwy 255

Waterways: Humboldt Bay, Pacific Ocean

Airports: n/a

Railways: n/a

Schools: n/a

**Document Type**

- |  |  |   |   |
|--|--|---|---|
| <b>CEQA:</b> <input type="checkbox"/> NOP          | <input type="checkbox"/> Supplement/Subsequent     | <b>NEPA:</b> <input type="checkbox"/> NOI | <b>Other:</b> <input type="checkbox"/> Joint Document |
| <input type="checkbox"/> Early Cons                | <input type="checkbox"/> EIR (Prior SCH No.) _____ | <input type="checkbox"/> EA               | <input type="checkbox"/> Final Document               |
| <input checked="" type="checkbox"/> Mit. Neg. Dec. | <input type="checkbox"/> Other _____               | <input type="checkbox"/> Draft EIS        | <input type="checkbox"/> Other _____                  |
| <input type="checkbox"/> Draft EIR                 |  | <input type="checkbox"/> FONSI            |   |

**Local Action Type**

- Parcel Map Subdivision, Coastal Development and Special Permits

**Development Type**

- Three lot subdivision and subsequent construction of two single family residences.

**Project Issues Discussed in Document**

- |  |   |  |  |
|--|---|--|--|
| <input type="checkbox"/> Aesthetic/Visual                    | <input type="checkbox"/> Flood Plain/Flooding                 | <input type="checkbox"/> Schools/Universities      | <input type="checkbox"/> Water Quality               |
| <input type="checkbox"/> Agricultural Land                   | <input type="checkbox"/> Forest Land/Fire Hazard              | <input type="checkbox"/> Septic Systems            | <input type="checkbox"/> Water Supply/Grndwtr        |
| <input type="checkbox"/> Air Quality                         | <input type="checkbox"/> Geologic/Seismic                     | <input checked="" type="checkbox"/> Sewer Capacity | <input checked="" type="checkbox"/> Wetland/Riparian |
| <input checked="" type="checkbox"/> Archeological/Historical | <input type="checkbox"/> Minerals                             | <input type="checkbox"/> Erosion/Comp/Grading      | <input type="checkbox"/> Wildlife                    |
| <input checked="" type="checkbox"/> Coastal Zone             | <input type="checkbox"/> Noise                                | <input type="checkbox"/> Solid Waste               | <input type="checkbox"/> Growth Inducing             |
| <input type="checkbox"/> Drainage/Absorption                 | <input type="checkbox"/> Population/Housing                   | <input type="checkbox"/> Toxic/Hazardous           | <input type="checkbox"/> Land Use                    |
| <input type="checkbox"/> Economic/Jobs                       | <input checked="" type="checkbox"/> Public Service/Facilities | <input type="checkbox"/> Traffic/Circulation       | <input type="checkbox"/> Cumulative Effects          |
| <input type="checkbox"/> Fiscal                              | <input type="checkbox"/> Recreation/Parks                     | <input type="checkbox"/> Vegetation                | <input type="checkbox"/> Other _____                 |

**Present Land Use/Zoning/General Plan Use**

*Present Land Use:* The approximately 3.7 acre parcel is currently developed with a single family residence and accessory structures.

*General Plan Designation:* Residential Estates (RE). Humboldt Bay Area Plan (HBAP). Density: 0-2 units per acre.

*Zoning:* Residential Single Family with a 20,000 square foot minimum parcel size and a combining zone for Manufactured Homes and Beach and Dune Area (RS-20-M/B).

**Description of project:** A Parcel Map subdivision to divide an approximately 3.7 acre parcel into three parcels of approximately 15,000 square feet, 15,670 square feet and 2.95 acres. A Coastal Development Permit is required for the subdivision and the subsequent construction of a single family residence with attached garage on Parcels 1 and 3. The residences will be two story (maximum height of 30 feet) and have a maximum size of 2,000 square feet. The attached two car garages will be approximately 440 square feet in size. A Special Permit is required for an exception to the minimum parcel size, a reduction to the wetland buffer area and to allow the two existing sheds to remain on proposed Parcel 1 prior to the establishment of a primary use. The Special Permit will also allow the single family residence proposed for Parcel 1 to be built as a primary residence and designating the existing residence as a second dwelling unit prior to recording the subdivision map. The parcels will be served by the Manila Community Services District.

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**KEY**  
 S = Document sent by lead agency  
 X = Document sent by SCH  
 ✓ = Suggested distribution

- Resources Agency
- Boating & Waterways
- Coastal Commission
- Coastal Conservancy
- Colorado River Board
- Conservation
- Fish & Game (Redding office)
- Forestry
- Office of Historic Preservation
- Parks & Recreation
- Reclamation
- S.F. Bay Conservation & Develop. Comm.
- Water Resources

**Business, Transportation & Housing**

- Aeronautics
- California Highway Patrol
- CALTRANS District #1
- Department of Transportation Planning (HQ)
- Housing & Community Development
- Food & Agriculture

**Health & Welfare**

- Health Services

**State & Consumer Services**

- General Services
- OLA (Schools)

**Cal-EPA**

- Air Resources Board
- APCD/AQMD (North Coast)
- California Waste Mgmt Board
- SWRCB: Clean Water Grants
- SWRCB: Delta Unit
- SWRCB: Water Quality
- SWRCB: Water Rights
- Regional WQCB #1 Northcoast

**Youth & Adult Corrections**

- Corrections

**Independent Commissions & Offices**

- Energy Commission
- Native American Heritage Comm.
- Public Utilities Commission
- Santa Monica Mountains Conservancy
- State Lands Commission
- Tahoe Regional Planning Agency

Other: \_\_\_\_\_

**Public Review Period** (to be filled in by the lead agency)

Starting Date: July 7, 2006

Ending Date: August 6, 2006

Signature: [Signature]

Date: July 5, 2006

**For SCH Use Only:**  
 Date Received at SCH \_\_\_\_\_  
 Date Review Starts \_\_\_\_\_  
 Date to Agencies \_\_\_\_\_  
 Date to SCH \_\_\_\_\_  
 Clearance Date \_\_\_\_\_  
 Notes: \_\_\_\_\_

**Applicant:** Michael and Sharon Fennell  
 Address: 1480 Peninsula Drive  
 City/State/Zip: Manila, CA 95521  
 Phone: (707) 442-8228  
 Attn: \_\_\_\_\_

**Agent:** Mike O'Hern  
 Address: 3240 Moore Avenue  
 City/State/Zip: Eureka, CA 95501  
 Phone: (707) 442-7283  
 Attn: \_\_\_\_\_

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**PLANNING DIVISION  
HUMBOLDT COUNTY COMMUNITY DEVELOPMENT SERVICES  
3015 H STREET  
EUREKA, CA 95501**

**Initial Study and Draft Mitigated Negative Declaration  
for FENNELL Minor Subdivision  
Parcel Map Subdivision/Coastal Development/Special Permits**

1. Project title: Fennell Parcel Map Subdivision, Coastal Development Permit and Special Permit (PMS-05-22/CDP-05-47/SP-05-62)
2. Lead agency name and address: Humboldt County Community Development Services - Planning Division, 3015 H Street, Eureka, CA 95501-4484; Phone: (707) 445-7541; Fax (707) 445-7446
3. Contact person and phone number: Trevor Estlow, phone: 707-268-3740, fax: 707-445-7446
4. Project location: The project is located in Humboldt County, in the Manila area, on the west side of Peninsula Drive, approximately 1,200 feet north of the intersection of Peninsula Drive and State Route 255, on the property known as 1501 Peninsula Drive.
5. Project sponsor's name and address: Michael and Sharon Fennell, 1480 Peninsula Drive, Manila, CA 95521, Phone (707) 442-8228.
6. General plan designation: Residential Estates (RE). Humboldt Bay Area Plan (HBAP). Density: 0-2 dwelling units per acre.
7. Zoning: Residential Single Family with a 20,000 square foot minimum parcel size with a combining zone for Manufactured Homes and Beach and Dune Area (RS-20-M/B).
8. Description of project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or on-site features necessary for its implementation. Attach additional sheets if necessary.): A Parcel Map subdivision to divide an approximately 3.7 acre parcel into three parcels of approximately 15,000 square feet, 15,670 square feet and 2.95 acres. A Coastal Development Permit is required for the subdivision and the subsequent construction of a single family residence with attached garage on Parcels 1 and 3. The residences will be two story (maximum height of 30 feet) and have a maximum size of 2,000 square feet. The attached two car garages will be approximately 440 square feet in size. A Special Permit is required for an exception to the minimum parcel size, a reduction to the wetland buffer area and to allow the two existing sheds to remain on proposed Parcel 1 prior to the establishment of a primary use. The Special Permit will also allow the single family residence proposed for Parcel 1 to be built as a primary residence and designating the existing residence as a second dwelling unit prior to recording the subdivision map. The parcels will be served by the Manila Community Services District.
9. Surrounding land uses and setting: Briefly describe the project's surroundings: The project site is located between the first public road and the Pacific Ocean approximately ¼ mile from the ocean. To the north and south are large residential parcels of between 1 and 10 acres. To the west is lands designated Natural Resources that are compromised of beach and dune areas. To the east are smaller residential parcels less than an acre in size with Humboldt Bay approximately 600 feet to the east. The parcel is located within the Appeals Jurisdiction of the Coastal Zone.
10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.) Humboldt County Department of Public Works, Environmental Health and the Building Inspection Division.



## EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take into account the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section 17, "Earlier Analyses," may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
  - a) Earlier Analysis Used. Identify and state where they are available for review.
  - b) Impacts Adequately Addresses. Identify which effects from the above checklist were within the scope of and adequately analyze in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
  - c) Mitigation Measures. For effects that are "Less Than Significant with Mitigation Measures Incorporated,," describe the mitigation measures which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plan, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats, however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
- 9) The explanation of each issue identify:
  - a) The significant criteria or threshold, if any, used to evaluate each question; and
  - b) The mitigation measure identified, if any, to reduce the impact to less than significant.

	Potentially Significant	Potentially Significant Unless Mitigation Incorp.	Less Than Significant Impact	No Impact
<b>1. AESTHETICS.</b> Would the project:				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>2. AGRICULTURE RESOURCES.</b> In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>3. AIR QUALITY.</b> Where available, the significant criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>4. BIOLOGICAL RESOURCES.</b> Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>5. CULTURAL RESOURCES.</b> Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>6. GEOLOGY AND SOILS.</b> Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>7. HAZARDS AND HAZARDOUS MATERIALS.</b> Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>8. HYDROLOGY AND WATER QUALITY.</b> Would the project:				
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>9. LAND USE AND PLANNING.</b> Would the project:				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>10. MINERAL RESOURCES.</b> Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>11. NOISE.</b> Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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<b>12. POPULATION AND HOUSING.</b> Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>13. PUBLIC SERVICES.</b>				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i. Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii. Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii. Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv. Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
v. Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>14. RECREATION.</b>				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>15. TRANSPORTATION/TRAFFIC.</b> Would the project:				
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>16. UTILITIES AND SERVICE SYSTEMS. Would the project:</b>				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>17. MANDATORY FINDINGS OF SIGNIFICANCE.</b>				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**18. DISCUSSION OF CHECKLIST RESPONSES****1. a.) & b): AESTHETICS: NO IMPACT**

Finding: The project will not have a substantial adverse effect on a scenic vista and will not substantially damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway.

Discussion: The project is not located in a designated scenic area and no scenic resources exist on the site.

**1. c) & d): AESTHETICS: LESS THAN SIGNIFICANT IMPACT**

Finding: The project would not substantially degrade the existing visual character or quality of the site and its surroundings and/or create a new source of substantial light or glare which would adversely affect day or nighttime views in the area unless mitigated.

Discussion: Development of the existing parcel with a residential subdivision of three parcels would result in increased lighting typical of a residential subdivision. No new street lighting is proposed for the subdivision project.

**2. a) - c): AGRICULTURE RESOURCES: NO IMPACT**

Finding: The project will not convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use; or conflict with existing zoning for agricultural use, or a Williamson Act contract; or involve other changes in the existing environment which, due to their location or nature, could result in conversion of farmland, to non-agricultural use.

Discussion: The proposed project site is currently developed with a single family residence. Subdivision and further development of the site would not change the current residential use of the property. No agricultural resources would be involved and the site is not considered as prime or unique farmland.

**3. a) - e): AIR QUALITY: NO IMPACT**

Finding: The project will have no impact on air quality with regards to: conflict with or obstruct implementation of the applicable air quality plan; nor violate any air quality standard or contribute substantially to an existing or projected air quality violation; nor result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors). In addition, the project will not expose sensitive receptors to substantial pollutant concentrations; nor create objectionable odors affecting a substantial number of people.

Discussion: Although minimal disturbance can be expected at the time of the construction of future homes and during the road improvements, the subdivision under review at this point will not increase any negative air quality issues for the long term. Where future development will occur, the parcel is relatively flat and will not require significant grading for the roadwork or the future homesites. The additional parcels will increase the amount of traffic thus increasing vehicular exhaust levels slightly, but not at a level that Staff finds to be significant. The Department finds no evidence that the creation of three additional parcels within an area characterized as urban residential will have a substantial adverse impact on air quality.

**4. a), b), d) & e): BIOLOGICAL RESOURCES: LESS THAN SIGNIFICANT IMPACT**

Finding: The project will have a less than significant impact, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game (DFG) or U.S. Fish and Wildlife Service (USFWS); nor will it interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use

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of native wildlife nursery sites; nor conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

Discussion: Although wetlands (see c. discussion below) were identified on the HBAP Resource maps, and Department of Fish and Game (DFG) did not identify any concerns, the project has the potential to have an effect on avian species and other species that may migrate through the property. Given the sufficient vegetation that buffers the existing wetland on site, and mitigation associated with (c.) below, staff finds that the creation of three residential parcels will have a less than significant impact.

**4. c): BIOLOGICAL RESOURCES: POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORP.**

Finding: The project may have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.

Discussion: A Wetland Delineation was performed by Mad River Biologists and identified woody dune hollow wetland and upland dune habitat. The proposed project maintains a 100 foot buffer (as required in the HBAP) from the edge of the delineated wetlands except for a small portion of proposed Parcel 3 where the buffer will be reduced to 90 feet. Appropriate mitigation has been included as conditions of approval to allow the standard 100 foot buffer to be reduced by 10 feet. The Wetland Delineation was sent to the Department of Fish and Game (DFG) for their review and comments. DFG did not respond with any comments.

**Mitigation:**

1. Position all high use areas such as walkways, points of entry, parking areas, and decking as far away as possible from the wetland, and/or establishing fencing between residential areas and wetland areas to limit access and potential anthropogenic disturbances.
2. Minimizing the amount of impervious substrate by constructing driveways, walkways and parking areas within or adjacent to buffer areas out of a porous paving material or gravel, and/or directing runoff away from the wetland to an on-site stormwater detention basin.
3. Limiting vegetation removal in upland areas and re-planting construction areas immediately upon completion of the project to avoid erosion and maintain a vegetative buffer between developed areas and the adjacent wetland.

**4. f): BIOLOGICAL RESOURCES: NO IMPACT**

Finding: The project will not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other approved local, regional, or state habitat conservation plan.

Discussion: The project site does not include any Habitat Conservation Plans, Natural Community Conservation Plans or other approved local, regional, or state habitat conservation plan.

**5. a) - c): CULTURAL RESOURCES: NO IMPACT**

Finding: The project will not have a significant impact on historical resources as defined in §15064.5; nor cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5; nor disturb any human remains, including those interred outside of formal cemeteries; nor will it have an impact on cultural resources by either directly or indirectly destroying a unique paleontological resource or site or unique geologic feature.

Discussion: After a review by the North Coastal Information Center, Division of Natural Resources and the Wiyot Tribe, it was determined that during any grading/excavating activities, a cultural monitor shall be present. This has been made a condition of approval.

**5. d): CULTURAL RESOURCES: POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORP.**

Finding: The project may disturb human remains, including those interred outside of formal cemeteries unless mitigation is incorporated.

Discussion: The proposed project is located in the community of Manila on the northern peninsula of Humboldt Bay. This area is known for potential archaeological resources. As such, the project was referred to the North Coastal Information Center, the Wiyot Tribe and the Blue Lake Rancheria. The North Coastal Information Center has recommended approval, however, the Wiyot Tribe recommended that a cultural monitor be present during any ground disturbing activities.

**Mitigation Measure:**

1. Prior to any ground disturbing activities, a cultural monitor shall be retained to observe all earthwork to the satisfaction of the Wiyot Tribe. This monitor shall be present during any new excavation and shall remain on site until no additional excavation activities are required or to the satisfaction of the Wiyot Tribe.

**6. GEOLOGY AND SOILS: LESS THAN SIGNIFICANT IMPACT, NO IMPACT**

Finding: The project will not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault; strong seismic ground shaking, seismic-related ground failure, including liquefaction; or landslides. The project will not result in the substantial loss of soil erosion or topsoil; or be located on a geologic unit or soil that is unstable; or that would become unstable as a result of the project and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse. Furthermore, the project will not create substantial risk to life or property by being located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), nor does the project have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water.

Discussion: The site is not within a mapped Alquist-Priolo Earthquake Fault Special Studies Area. There is no indication that any known faults are located near the area of operation. The project site is relatively flat and the Framework Plan Geologic Hazards map indicates that the parcel is located in an area of relatively stable soils. Referral comments did not suggest the proposed project would result in any landslide hazards or expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994). The existing residence is served by community water and sewer systems; and Department of Environmental Health (DEH) has recommended approval. Based on the above, the Department finds that the project will not result in a significant environmental impact with respect to the above specific geology/soils issues.

**7. HAZARDS AND HAZARDOUS MATERIALS: NO IMPACT**

Finding: a) The project would not create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials.

Discussion: The type of activities that are proposed for the project do not involve transport, use, or disposal of hazardous materials.

Finding: b) The project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

Discussion: The type of activities that are proposed for the project do not involve transport, use, or disposal of hazardous materials (solvent, fuels, etc.)

Finding: c) The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.

Discussion: The project site is not located within one-quarter mile of an existing or proposed school, and it does not involve any activities that would result in hazardous emissions or the handling of hazardous materials.

Finding: d) The project would not be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would not create a significant hazard to the public or the environment.

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Discussion: The project site is not included on a list of hazardous material sites compiled pursuant to Government Code Section 65962.5.

Finding: e) For a project located within an airport land use plan or, where such plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?

Discussion: The project is not located within an airport land use plan or within two miles of a public airport.

Finding: f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?

Discussion: The project is not within the vicinity of a private airstrip.

Finding: g) The project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.

Discussion: No activity or development is proposed that would impair implementation of such plans.

Finding: h) The project would not expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands.

Discussion: The area is not designated as wildlands and has a low fire risk rating.

#### **8. a) - b): HYDROLOGY AND WATER QUALITY: NO IMPACT**

Finding: The project would not: a) Violate any water quality standards or waste discharge requirements; b) substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted).

Discussion: The proposed project would result in the need to deal with runoff water during construction and from residential home sites. If more than one acre is disturbed, the applicant will be required to meet the water quality standards for storm water runoff to the satisfaction of the Regional Water Quality Control Board. The project will disturb less than one acre. The proposal would not result in a change in the quantity of ground water, either through direct additions or withdrawals.

#### **8. c) - d): HYDROLOGY AND WATER QUALITY: POT. SIG. UNLESS MITIGATION INCORP.**

Finding: c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in a substantial erosion or siltation on- or off-site; d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site; e) Create or contribute runoff water which would be directed towards existing facilities.

Discussion: Runoff water management and drainage improvements are required as appropriate to the satisfaction of the Humboldt County Department of Public Works as conditions of approval of the subdivision and are included as mitigation. Improvements will require designs which would not result in exceeding existing or planned stormwater drainage systems.

#### Mitigation:

Impacts to drainage facilities shall be mitigated in accordance with the conditions of approval of the Department of Public Works.

Finding: g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?

Discussion: The project does not involve the placement of housing within the 100-year flood hazard area.

Finding: h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?

Discussion: The project does not involve the placement of housing within the 100-year flood hazard area.

Finding: i) Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam? J) Inundation by seiche, tsunami or mudflow?

Discussion: The site is shown on the Planning Scenario for a Great Earthquake on the Cascadia Subduction Zone (CSZ) (CDMG, 1995, Map S-1) as being within the zone of potential inundation by a tsunami. The scenario earthquake is assumed to generate a local tsunami that will arrive just minutes after the earthquake occurs. On the Samoa Peninsula, strong shaking should be taken as a warning of a potential tsunami, and individuals should immediately move to higher ground. A possible refuge might be afforded by the 1.5 mile long by 300 foot wide ridge of wooded dunes located just west of the project site; however, the degree of protection for individual properties is unknown and direct and indirect effects of tsunami run-up (e.g., flooding, wave and debris impacts, and access disruption) could result in significant adverse impacts to persons and property. Studies prepared for the Samoa Town Master Plan EIR show that relative risk is greatest for lands at or below the 30 foot elevation above mean sea level (msl). To mitigate for these impacts, the National Weather Service and the County Office of Emergency Services (OES) are working to establish an active warning system and evacuation plans for tsunami hazard areas, including Manila. As part of the project proposal, the applicant is voluntarily contributing to the Tsunami Ready Program Fund administered through OES. Based on the applicant's proposal, the Department is able to find that the project has a less than significant impact with respect to exposure to a tsunami.

#### **9. LAND USE AND PLANNING: LESS THAN SIGNIFICANT IMPACT, NO IMPACT**

Finding: The project will **not** physically divide an established community; conflict with a local land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect; nor conflict with any applicable habitat conservation plan or natural community conservation plan.

Discussion: The project would create 3 residential parcels where one now exists, resulting in the addition of two parcels. The project is consistent with the minimum lot sizes and densities as specified in the Humboldt Bay Area Plan and zoning regulations, and is consistent with the adjacent residential development. There is no evidence to indicate that the addition of two residences will have a significant impact on adjacent properties

#### **10. MINERAL RESOURCES: NO IMPACT**

Finding: The project will **not** result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state; or result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan.

Discussion: The project does not involve extraction of mineral resources. The project site is not, nor adjacent to, a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan. The Department finds there is no evidence that the project will result in significant adverse impact with regard to mineral resources.

#### **11. d): NOISE: LESS THAN SIGNIFICANT IMPACT**

Finding: The project would result in less than significant impacts to noise, as a result of a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.

Discussion: The impact would be less than significant because such increases would only be short term, lasting only the length of time required to complete the work, or during windy conditions that are conducive for creating noise increases. The current proposal does not include equipment or activities which are

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anticipated to generate increase temporary, periodic ambient noise levels. The construction of the new homes will create a temporary noise source. There is no evidence that the temporary increased noise levels and groundborne vibrations would result in significant adverse environmental impacts. Based on the above, the Department finds that the project will have a less than significant impact to the environment with regards with the above referenced noise issues.

#### 11. a) – c), e) and f) NOISE: NO IMPACT

Finding: The project will result in no impact with regards to the following noise hazards: the exposure of persons to or, generation of, noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies; nor exposure of persons to generation of excessive groundborne vibration or groundborne noise levels. In addition, the project will result in no impact to noise, as a result of a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project; nor, for projects located within an airport land use plan or, where such a plan has not been adopted or, within two miles of a public airport or public use airport or within the vicinity of a private airstrip, the project would not expose people residing or working in the project area to excessive noise levels; for projects within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels.

Discussion: The project is outside the area of concern for any airports. And there is no private airstrip in the vicinity of the project. There will be no groundborne vibrations or noise of a permanent nature. Based on the above, and a review of the administrative record, the Department finds that the project will not have an adverse impact by exposing people residing or working in the project area to excessive noise levels within an airport land use plan or, within two miles of a public airport, public use airport or, within the vicinity of a private airstrip nor to noise or vibrations.

#### 12. a) - c): POPULATION AND HOUSING: NO IMPACT

Finding: The project will not induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure); or displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere; or displace substantial numbers of people, necessitating the construction of replacement housing elsewhere.

Discussion: The project is for the creation of 3 residential parcels where one currently exists. The project is consistent with the residential density allowed by the community plan and therefore does not exceed population projections. The proposal is "infill" development, will not induce future growth, and will not displace existing housing. There is no evidence indicating that the project will cumulatively exceed official regional or local population projections, induce substantial growth in an area either directly or indirectly, or displace existing housing.

#### 13. PUBLIC SERVICES: LESS THAN SIGNIFICANT IMPACT

Finding: The project will have a less than significant impact on new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services: fire protection, police protection, schools, parks, other public facilities.

Discussion: As discussed above, all parcels resulting from this subdivision will be served by a road improved to at least a Road Category 4. Access to the site is via an existing paved County road (Peninsula Drive) with a right of way width of 40 feet. There would be slight increases in the demand for existing services such as fire protection, police protection, schools and other public facilities as a consequence of creation of three additional residential parcels, but these increases would be within the capabilities of the existing infrastructure and services. The Department finds there is no evidence indicating that the project will effect upon, or result in a need for new or altered government services for fire protection, police protection, schools, maintenance of public facilities, including roads, or other

governmental services based on the project as proposed and mitigated, comments from reviewing agencies, and review of applicable regulations.

#### 14. RECREATION: LESS THAN SIGNIFICANT IMPACT

Finding: The project will not increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated; or include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.

Discussion: The project does not include any new development that would increase the use of existing neighborhood and regional parks or other recreational facilities. There is no evidence indicating that the project would affect existing recreational opportunities based on the project as proposed and comments from reviewing agencies, and review of applicable regulations (see aesthetic and biological discussion above). Based on the above the Department finds the project will have no impact on the environment with regards to the above referenced recreation issues.

#### 15. TRANSPORTATION/TRAFFIC: LESS THAN SIGNIFICANT IMPACT

Finding: The project will not cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections), and exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways. The project will not result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks; nor substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment); nor result in inadequate emergency access; nor result in inadequate parking capacity; nor conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks).

Discussion: The development would result in three residential lots, on-site improvements and infilling of an established residential development pattern. All parcels resulting from this subdivision will be served by a county maintained road that has a right of way of 40 feet.

The department finds there is no evidence indicating that the project will result in : inadequate emergency access or access to nearby uses, insufficient parking capacity on-site, conflicts with adopted policies supporting transportation or rail, waterborne or air traffic impacts based on the project as proposed and mitigated, comments from reviewing agencies, and review of applicable regulations. The increase in traffic will be limited in duration; therefore, the Department finds that the project will not have a significant impact on vehicle trips or traffic congestion.

#### 16. UTILITIES AND SERVICE SYSTEMS: NO IMPACT

Finding: The project will not exceed wastewater treatment requirements of the applicable RWQCB; or require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects; or require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects; or have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed; or result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments; or be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs; or comply with federal, state, and local statutes and regulations related to solid waste.

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Discussion: The proposal will not have an effect upon, or result in a need for new systems or supplies, or substantial alterations to power or natural gas, communications systems, local or regional water treatment or distribution facilities, sewer or septic tanks, storm water drainage, solid waste disposal, or regional water. The Department finds that there is no evidence indicating that the project will have an effect upon, or result in a need for new systems or supplies, or substantial alterations to : power or natural gas; communications systems; local or regional water treatment or distribution facilities; storm water drainage; solid waste disposal; or regional water supplies. These findings are based on the project as proposed and mitigated, comments from reviewing agencies, and review of applicable regulations.

#### 17. MANDATORY FINDINGS OF SIGNIFICANCE: NO IMPACT

Finding: The project will **not** have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory; or have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects); or have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly.

Discussion: Based on the project as described in the administrative record, comments from reviewing agencies, a review of the applicable regulations, and discussed herein, the Department finds there is no evidence to indicate the proposed project:

- Will have the potential to degrade the quality of the environment, reduce the habitat of a fish or wildlife species, threaten to eliminate a plant or animal community or eliminate important examples of the major periods of California history or pre-history;
- Will have the potential to achieve short-term to the disadvantage of long-term environmental goals;
- Will have impacts that are individually limited but cumulatively considerable; or
- Will have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly.

There are no known mechanisms by which the project would substantially reduce the habitat of a fish or wildlife species or cause a fish or wildlife population to drop below self-sustaining levels. The Department believes the project has been designed to minimize potential adverse effects to biological resources and the project will not substantially reduce the habitat of a fish or wildlife species or cause a fish or wildlife population to drop below self-sustaining levels.

The project will not restrict or reduce the range or number of rare or endangered plants or animals. There is no evidence in the public record that the installation of proposed communication facility will restrict or reduce the range or number of rare or endangered plants or animals. Referral agencies, including but not limited to, DFG, California Coastal Commission and NCIC provided approval or conditional approval of the project; referral agencies did not identify any concerns regarding the project restricting or reducing the range or number of rare or endangered plants or animals.

#### 19. DISCUSSION OF MITIGATION MEASURES, MONITORING, AND REPORTING PROGRAM

See attached Mitigation Measures, Monitoring, and Report Program.

#### 20. EARLIER ANALYSES.

Earlier analysis may be used where, pursuant to the tiering, program EIR, or other CEQA process, one or more effects have been adequately analyzed in an earlier EIR or negative declaration. Section 16063(c)(3)(D). In this case a discussion should identify the following on attached sheets:

- a) Earlier analyses used. Identify earlier analyses and state where they are available for review.
- none

b) Impacts adequately addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects are addressed by mitigation measure based on a the earlier analysis.

All effects from the proposed project were analyzed on their own merits separate from earlier analysis.

c) Mitigation measures. For effects that are "Less than Significant with Mitigation Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

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19: MITIGATION MEASURES, MONITORING, AND REPORTING PROGRAM

The following table lists the required mitigation measures, including the method of verification, monitoring schedule, and the responsible party.

Resource(s)	Measure No.	Summary of Mitigation Measure	Method of Verification	Monitoring Schedule	Responsible Party
Biology	1	Position all high use areas such as walkways, points of entry, parking areas, and decking as far away as possible from the wetland, and/or establishing fencing between residential areas and wetland areas to limit access and potential anthropogenic disturbances.	At Building Permit issuance	ongoing	Applicant, successors in interest, & HCCSD.
Biology	2	Minimizing the amount of impervious substrate by constructing driveways, walkways and parking areas within or adjacent to buffer areas out of a porous paving material or gravel, and/or directing runoff away from the wetland to an on-site stormwater detention basin.	At Building Permit issuance	ongoing	Applicant, successors in interest, & HCCSD.
Biology	3	Limiting vegetation removal in upland areas and re-planting construction areas immediately upon completion of the project to avoid erosion and maintain a vegetative buffer between developed areas and the adjacent wetland.	At Building Permit issuance	ongoing	Applicant, successors in interest, & HCCSD.
Cultural	4	Prior to any ground disturbing activities, a cultural monitor shall be retained to observe all earthwork to the satisfaction of the Wiyot Tribe. This monitor shall be present during any new excavation and shall remain on site until no additional excavation activities are required or to the satisfaction of the Wiyot Tribe.	At Building Permit issuance	ongoing	Applicant, successors in interest, & HCCSD
Hydrology	5	Impacts to drainage facilities shall be mitigated in accordance with the conditions of approval of the Department of Public Works.	During Public Works Review	Ongoing	Applicant, successors in interest, & HCCSD

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## CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE

710 E STREET, SUITE 200

EUREKA, CA 95501

VOICE (707) 445-7833 FAX (707) 445-7877



## APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

### SECTION I. Appellant(s)

Name: (See Attachment A)

Mailing Address:

City:

Zip Code:

Phone:

EXHIBIT NO. 8

APPEAL NO.

A-1-HUM-06-041

FENNELL

APPEAL (1 of 9)

### SECTION II. Decision Being Appealed

1. Name of local/port government:

Humboldt County

2. Brief description of development being appealed:

A Parcel Map subdivision to divide an approximately 3.7 acre parcel into three parcels of approximately 15,000 square feet and 2.95 acres. A Coastal Development Permit is required for the subdivision and the subsequent construction of a single family residence with attached garage on Parcels 1 and 3. The residences will be two story (maximum height of 30 feet) and have a maximum size of 2,000 square feet. The attached two car garages will be approximately 440 square feet in size. A Special Permit is required for an exception to the minimum parcel size, a reduction to the establishment of a primary use. The Special Permit will also allow the single family residence proposed for Parcel 1 to be built as a primary residence and designating the existing residence as a second dwelling unit prior to recording the subdivision map. The parcels will be served by the Manila Community Services District.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

1505 Peninsula Drive, Manila (Humboldt County) (APN 400-151-01)

**RECEIVED**

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CALIFORNIA  
COASTAL COMMISSION

4. Description of decision being appealed (check one.):

- Approval; no special conditions
- Approval with special conditions:
- Denial

**Note:** For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

**TO BE COMPLETED BY COMMISSION:**

APPEAL NO:

A-1-HUM-06-041

DATE FILED:

9/19/06

DISTRICT:

North Coast

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)**

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: August 17, 2006

7. Local government's file number (if any): CDP 05-47

**SECTION III. Identification of Other Interested Persons**

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Michael & Sharon Fennell  
1480 Peninsula Drive  
Manila, CA 95521

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Mike O'Hern  
3240 Moore Avenue  
Eureka, CA 95501

(2)

(3)

(4)

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State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attachment B

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: Meg Caldwell  
Appellant or Agent

Date: 9/19/06

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

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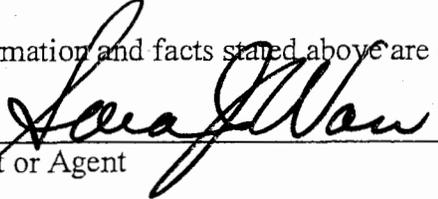
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attachment B

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed:   
Appellant or Agent

Date: 9/19/06

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

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ATTACHMENT A

SECTION I. Appellant(s)

1. Meg Caldwell  
Stanford Law School  
559 Nathan Abbott Way  
Owen House Room 6  
Stanford, CA 94305-8610  
  
Phone: (650) 723-4057
  
2. Sara J. Wan  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105  
  
Phone: (415) 904-5201

## ATTACHMENT B

### Appealable Project

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (Coastal Act Section 30603).

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea, or within three hundred feet of the inland extent of any beach, or of the mean high tide line of the sea where there is no beach, or within one hundred feet of any wetland or stream, or within three hundred feet of the top of the seaward face of any coastal bluff, or those located in a sensitive coastal resource area.

Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county. The grounds for an appeal are limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program and, if the development is located between the first public road and the sea, the public access policies set forth in the Coastal Act.

The subject development is appealable to the Commission pursuant to both 30603(a)(1) (a)(2) and (a)(4) of the Coastal Act because the proposed development (1) is located between the sea and the first public road paralleling the sea (2) involves development within 100 feet of a wetland, and (3) includes a land division which is not a principal permitted use under the certified LCP. Therefore, the development is appealable to the Commission.

### Approved Project

The County of Humboldt approved Coastal Development Permit No. CDP-05-47 to (1) divide a 3.7-acre parcel located at 1505 Peninsula Drive in the unincorporated community of Manila into three parcels of 15,000 square feet, 15,670 square feet, and 2.95 acres, and (2) construct single family residences with attached garages on proposed Parcels 1 and 3. The specific design of each of the new houses has not yet been prepared. The permit grants blanket approval for the two homes specifying that the homes shall be two story with a maximum height of 30 feet, a maximum size of 2,000 square feet, and the attached two car garages shall be approximately 440 square feet in size. The property is located in the Manila area on the west side of Peninsula Drive, approximately 1,200 feet north of the intersection of Peninsula Drive and State Route 255 on the property known as 1501 Peninsula Drive.

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Reasons for Appeal

The approved project is inconsistent with the geologic and flood hazard policies of the certified LCP with respect to minimizing risks to life and property from tsunamis.

1. LCP Provisions

The Humboldt Bay Area Plan segment of the certified Land Use Plan incorporates Section 30253 of the Coastal Act as a policy of Section 3.17 "Hazards." Section 30253 of the Coastal Act states in applicable part:

*New development shall:*

- (1) *Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*

2. Other Coastal Act Provisions

Coastal Act Section 30607 states:

*Any permit that is issued or any development or action approved on appeal, pursuant to this chapter, shall be subject to reasonable terms and conditions in order to ensure that such development or action will be in accordance with the provisions of this division.*

3. Discussion

The County staff report notes that the subject property along with many others along the Samoa Peninsula of Humboldt Bay is shown on the maps of the Planning Scenario of a Great Earthquake on the Cascadia Subduction Zone (CSZ, CDMG, 1995, Map S-1) as being within the zone of potential inundation by a tsunami. After a major earthquake along the Cascadia Subduction Zone, a local tsunami would arrive within minutes. The County staff report indicates that a 1.5-mile long by 300-foot-wide ridge of wooded dunes located just west of the project site may afford a possible refuge during a tsunami, but that the degree of protection the ridge would afford for individual properties is unknown and direct and indirect effects of tsunami run-up such as flooding, wave and debris impacts, and access disruption could result in significant adverse impacts to persons and properties. Studies recently prepared for the draft EIR for the nearby Samoa Town Master Plan project demonstrate that the relative risk is greatest for lands at or below the 30-foot elevation above mean sea level (msl). The County staff report does not make it clear whether the proposed parcels and building sites are below the 30-foot elevation, but implies that they are.

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The County's approval acknowledges that flood hazards associated with a tsunami affect the subject property. As part of the project proposal, the applicant is voluntarily contributing to the Tsunami Ready Program Fund administered by the County Office of Emergency Services (OES). Special Condition No. 9 requires that the applicant submit evidence that the contribution to the Tsunami Ready Program Fund has been made prior to recordation of the parcel map. The OES and the National Weather Service are working to establish an active warning system and evacuation plans for tsunami hazard areas in the area. The agencies use money from the Tsunami Ready Program Fund to in part help prepare such warning systems and evacuation plans. The County findings indicate that based on the applicant's proposal to contribute to the Tsunami Ready Program Fund, the County was able to find that the project has a less than significant impact with respect to exposure to a tsunami. This contribution is presumably also the unstated basis for the County's determination that the project as approved is consistent with the Section 30253 of the Coastal Act, incorporated by reference into the LCP, and its requirement that new development minimize the risks to life and property in areas of high geologic, flood, and fire hazard.

The project as approved with the applicant's proposed contribution to the Tsunami Ready Program Fund does not minimize the risk of flood hazards in the event of a tsunami, and is therefore inconsistent with Section 30253 of the Coastal Act and Section 3.17 of the Humboldt County LUP, to which Section 30253 is incorporated. Although development of effective tsunami warning and evacuations systems and plans is an important and essential element of an overall strategy for addressing the flooding threat from tsunamis, warning and evacuation plans do not minimize risks of flood hazards as required by the policy. Other means are available that would reduce the risks to residents associated with tsunami hazards to a much greater degree.

First, not approving a division of land that creates additional residential building sites within a tsunami wave run-up area would greatly reduce the risk to life and property by reducing the numbers of people and structures that would be threatened by the tsunami. Second, siting and designing residential structures to either avoid or withstand tsunami wave run-up would greatly reduce the risk to life and property. For example, the proponents of the Samoa Town Plan Master Plan project, which as currently proposed involves the creation of approximately 244 additional single and multi-family residential units in the nearby Town of Samoa, have recently revised the Master Plan proposal to either site all new permanent residential structures above the 30-foot MSL level or design proposed residential structures on lands below 30 feet in a manner that positions the floor level of all habitable living spaces on upper floors or raised portions of the buildings that are above the 30-foot level. In the latter case, the structures would be designed to structurally withstand the force of the tsunami that could inundate the portions of the structures below the floor level of the living spaces. Unlike with reliance on a tsunami warning and evacuation system, such a strategy is not dependent on the evacuation of residents to ensure their safety but rather ensures residents can survive tsunamis without leaving their home. Residents who don't hear a tsunami warning or simply cannot react fast enough to a warning would still retain a good chance of survival. In addition, by

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locating such residential property outside of the areas of high risk or designing them to withstand the force of a tsunami that inundates portions of the structures but not habitable living spaces, the Samoa approach would reduce risks to property to a much greater degree than the project as approved.

Thus, as alternatives such as not approving a land division that creates more residential building sites within a tsunami wave run-up area or siting or designing the residential structures to be accommodated by the land division to either be outside of the areas at highest risk of tsunami wave run-up or constructed with habitable living spaces positioned only above tsunami inundation levels would reduce the risk to persons and property to a greater degree than relying on a system of tsunami warnings and evacuation plans in the manner approved by the County. Therefore, the project as approved does not minimize risks to life and property and is inconsistent with Section 30235 of the Coastal Act and the certified LUP to which Section 30235 has been incorporated.

Michael Fennell  
1480 Peninsula Dr.  
Manila, Ca 95521  
707-442-8228

Apn#400-151-01

EXHIBIT NO. 9
APPLICATION NO. A-1-HUM-06-041 FENNELL APPLICANT'S CORRESPONDENCE (1 of 3)

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SEP 27 2006

CALIFORNIA  
COASTAL COMMISSION

Re: Appeal of my project by California Coastal Commission staff  
Appeal# A-1-Hum-06-041 North Coast

Summary of the facts:

County planning staff has assisted me for eight months in getting a coastal development permit to subdivide a 3.7 acre parcel into 3 parcels and build two homes. The property is at 1501 Peninsula Dr. in Manila and has one residence on it now. The Planning Commission approved my project on August 17, 2006. On September 20, I received a notice of appeal from the California Coastal Commission's North Coast District. The appeal was not made by any member of the public, but by the district staff, which got two commissioners to sign the appeal written by Bob Merrill. The reason for the appeal states "...the project is inconsistent with the geologic and flood hazard policies of the certified LCP with respect to minimizing risks to life and property from tsunamis." It goes on to say that the relative risk is greatest for lands at or below 30' elevation above mean sea level and because my project is under 30' it does not minimize the risk of flooding... "and is therefore inconsistent with sec. 30253 of the Coastal Act "... and others. The report claims that building above the 30' elevation would "ensure residents can survive tsunamis without leaving their home."

I met with Bob Merrill, the head of the local Coastal Commission office on Tuesday, September 26. I showed Bob my tentative subdivision map that showed elevations above 30 and 31 feet for the footprint of the houses. When you add almost three feet for the perimeter foundation and floor joists, the living space will be at about 34' above mean sea level. This is well above the level that CCC staff says is required. When I pointed this fact out to Bob, I got an answer that I could hardly believe. Even though I was above the required elevation, it might not be enough, because the commission might want more. In other words a moving target. When I insisted that the appeal was in error and he should see that and correct it, Mr. Merrill changed the subject to the wetland delineation. He didn't like the parameters used by the biologist, even though they are used by the Army Corps of Engineers, and the California Fish and Game which regulate wetlands. This "issue" was not mentioned in the appeal. It looks like a weak attempt to justify a faulty appeal.

This stopping of my project is not just wrong but costly. I and three employees will not be working. Even if this appeal is only a delay, it will cost a considerably amount of money and effort and travel to Southern California to a CCC meeting, where the commissioners don't even have to recognize me and let me speak, unless I can get three commissioners to vote to hear my case. Bob agrees that I will probably win the appeal by conditioning the foundation to be above ground. I have already submitted building plans that show exactly that. No amount of truth or logic deters Bob from admitting his mistake. His appeal narrative is based on erroneous information. I am in compliance with the local coastal plan. This appeal is not only not a substantial issue, it is not true. When I ask the county planning staff why they don't know what the coastal commission wants, they say Bob's office hasn't informed them of any changes. This is all new to them. In fact the coastal commissioners have never made a motion to dictate this change in policy. It is being instigated by staff with no apparent legislative input or public input. This is not a fair process. I jumped through all the hoops the county asked me to for eight months, and now the coastal commission staff is moving the hoop while I'm in midair.

Sincerely, Michael Fennell

# MAD RIVER BIOLOGISTS



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SEP 27 2006

CALIFORNIA  
COASTAL COMMISSION

September 27, 2006

Michael Fennell  
1480 Peninsula Drive  
Manila, CA 95521

Re: Clarification regarding methodology and factors used to determine the wetland boundary for APN 400-151-01

Mr. Fennell,

This letter is in response to questions raised by the California Coastal Commission in response to your permit application for the proposed subdivision of your property located off Peninsula Drive in Manila, Humboldt County, California (APN 400-151-02). It is my understanding that the Commission expressed concern that the wetland delineation performed by Mad River Biologists (MRB) in April of 2005 did not address applicable policies of the Humboldt County Local Coastal Program (LCP), specifically, in identifying potential state-jurisdictional wetlands.

The area in question is the slope of the dune located between the lower elevation dune hollow wetland and the top of the slope. This area exhibits a high cover of Hooker willow (*Salix hookeriana* - FACW), represented primarily by overhanging limbs from trees rooted in the lower elevation wetland area. This species is known to act as a phreatophyte (i.e. plant with long roots capable of tapping into the seasonally high fresh water table) and can also withstand some degree of burial by moving dunes. Dominant understory species in this area include evergreen huckleberry (*Vaccinium ovatum* - NL), bracken fern (*Pteridium aquilinum* - FACU), sweet vernal grass (*Anthoxanthum odoratum* - FACU), and California blackberry (*Rubus ursinus* - FAC+), the majority of which are facultative upland or upland in regard to wetland preference.

As stated in the wetland report (Mad River Biologists, December 20, 2005), the delineation was conducted according to the methods outlined in the U.S. Army Corps of Engineers (Corps) Wetland Delineation Manual (Environmental Laboratory 1987)<sup>1</sup>. The Corps utilizes a three-parameter approach for making wetland determinations, which is based on the presence of indicators for wetland hydrology, a predominance of hydrophytic vegetation, and hydric soils. The Corps identifies an area as wetland when all three parameters are present (unless the area has been modified by human activity); however, the LCP adheres to the California Department of Fish and Game (DFG) wetland definition, which is also the definition generally followed by the California Coastal Commission. An important difference in the DFG delineation process compared to the federal process is that the DFG requires the presence of only **one** attribute (e.g., hydrology, hydric soils, or hydrophytic vegetation) for an area to qualify as a wetland (Fish and Game Commission 1987). In a report submitted by DFG to the Fish and Game Commission (FGC) Wetland Subcommittee on June 24, 1987, the FGC concurred with DFG's use of the federal definition as a basis for wetland identification. The FGC added that, "Where less than three indicators are present, policy application

<sup>1</sup> Environmental Laboratory. 1987. Corps of engineers wetlands delineation manual. U.S. Army Corps of Engineers, Wetlands Research Program Vicksburg, MS. Technical Report Y-87-1.

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shall be supported by the demonstrable use of wetland areas by wetland associated fish or wildlife resources, related biological activity, and wetland habitat values (revised August 1994)<sup>2</sup>.

Under this definition, the Commission views the overhanging willow branches as contributing to the habitat value of the adjacent dune hollow, which they do, and therefore include them as part of the wetland; however, under the federal definition, an upland dune would not be considered a wetland since hydrology does not occur. The US Fish and Wildlife Service has emphasized that in order for an area to be classified as wetland by the Service, the area must be periodically saturated or covered by shallow water, whether wetland vegetation and/or hydric soils are present or not; this hydrologic requirement is addressed in the first sentence of the federal definition. Hydrophytes and hydric soils develop as a direct result of a wetland hydrologic regime, that is, wetland hydrology (USFWS Wetland Ecologist Ralph Tiner, Jr., National Wetland Newsletter, May 1989)<sup>3</sup>.

The wetland delineation line mapped by MRB for your parcel represents the upper extent of wetland hydrology and *rooted* hydrophytic vegetation (hydric soils do not occur on the slope, only in the lower elevation hollow). The upper reach of the slope of the dune was not factored in to the wetland boundary, but rather identified as part of the riparian vegetation associated with the wetland. The wetland report emphasized the importance of retaining this vegetation to maintain an effective vegetative buffer between the lower elevation dune hollow and upland portions of the property. This riparia was identified as part the Environmentally Sensitive Habitat Area (ESHA) that includes the dune hollow wetland, but not specifically identified as wetland owing to the lack of hydrology, hydric soils, and growth habit of the predominant vegetation.

As indicated in the wetland report, it is my opinion that a 100-foot wetland setback, measured from the edge of the wetland, identified as the upper extent of wetland hydrology and rooted hydrophytic vegetation, would provide adequate protection of the resource providing that the associated riparia is retained as part of the buffer and other recommendations outlined in the report are followed.

It should be noted that the closest distance to the edge of the willow from proposed development is 45 feet. Should the Commission choose to set the edge of the willow habitat as the wetland boundary, you may consider consulting County policy, which specifies that within the urban limit line, the setback shall be either 100 feet or the average setback of existing development as determined by the "string-line" method. "That method shall be used which provides development setbacks similar to those occurring on adjacent parcels and adequately protects the wetland" (Humboldt Bay Area Plan Section 3.30B6d).

I hope this helps explain the issue brought up by the Commission and clarify the process used for determining the wetland boundary on your property. If you have any further questions please do not hesitate to call.

Sincerely,



Stephanie Morrissette  
Associate Biologist

<sup>2</sup> California Fish and Game Commission Policies. "Fish and Game Commission Comment to the Department of Fish and Game on the Wetland Policy Implementation Proposal" Amended 8/4/94. Accessed September 26, 2006 from the internet at <http://www.fgc.ca.gov/html/p4misc.html#DEPARTMENT>.

<sup>3</sup> Tiner, Ralph W. Jr. 1989. A Clarification of the U.S. Fish and Wildlife Service's Wetland Definition. National Wetlands Newsletter. 11(3)6-8.

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